

**IN THE UNITED STATES OF AMERICA
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
BALTIMORE FIELD OFFICE**

CLAUDIA RAUSCH,	)	
	)	EEOC NO. 531-2022-00289X
COMPLAINANT,	)	
	)	AGENCY NO. HHS-HRSA-0061-2022
v.	)	
	)	
XAVIER BECERRA	)	ADMINISTRATIVE JUDGE
SECRETARY	)	
UNITED STATES DEPARTMENT OF	)	
HEALTH AND HUMAN SERVICES,	)	
	)	OCTOBER 5, 2022
AGENCY.	)	
	)	

COMPLAINANT’S SECOND MOTION TO AMEND COMPLAINT

Pursuant to 29 C.F.R. §1614.106(d), Federal Rule of Civil Procedure 15, and The Equal Employment Opportunity Commission (“Commission”)’s Management Directive 110 (“MD-110”), Complainant, Claudia Rausch, Pro Se, (“Complainant” or “Ms. Rausch”) respectfully moves to amend her complaint a second time, to include new claims of discrimination and retaliation on the grounds that they arose from the instant complaint and are like the original claims in this instant complaint. Ms. Rausch reserves the right to supplement this motion to include additional supporting facts and full legal argument in support.

Complainant moves that the following claim(s) be added to the pending instant complaint:

A. Whether the U.S. Department of Health and Human Services (“Agency”) subjected Ms. Rausch to discrimination and a pattern of retaliatory harassment on the basis(s) of sex (female), national origin (Mexican-American), race (Hispanic), disability (Panic attacks and anxiety, perceived or otherwise), reprisal, (protected EEO-Activity and protected opposition), when:

1. On August 23, 2022, Complainant was pressured into applying for FMLA by her first-level supervisor, Carolyn Nganga-Good. **Email attached.**
2. On September 6, 2022, the Agency misrepresented communications with Complainant to the EEOC, in order to justify the Agency’s failure to timely investigate Complainant’s claims. **See September 6, 2022 Notice to EEOC from Oscar Toledo, EEO Complaints Manager on FEDSEP.**
3. On September 7, 2022, Complainant’s second-level supervisor, Melissa Moore, discredited Complainant’s claims of retaliation and refused to address her concerns of retaliatory harassment. **Email attached.**
4. On September 7, 2022, Catherine Ganey, Human Resources Director, approved a 7-Day suspension of Complainant, despite knowing that it was unsupported by factual evidence and done for the purposes of retaliating against Complainant. **Approval of suspension attached.**
5. On September 13, 2022, the Agency proceeded to investigate fragmented, incomplete and mischaracterized EEO claims, after ignoring Complainant’s August 24th, 2022 request to clarify accepted claims. **Email from EEO Investigator attached.**
6. From September 15, 2022 to October 5, 2022, Carolyn Ngnaga-Good overwhelmed Complainant with scrutiny of her deadlines, attendance, and conduct, for the purpose of

interfering with Complainant's ability to meet work deadlines and timely respond to the EEO investigator. ***Emails from Ms. Nganga-Good attached.***

7. On September 21, 2022, Complainant's telework agreement was terminated without notice after the Agency learned that Complainant feared experiencing retaliatory harassment and radiation attacks near and at the Agency duty station at 5600 Fishers Lane in Rockville, MD. ***September 21, 2022 Notice of Leave Restriction and Suspension of AWS and Telework attached.***
8. On September 21, 2022, Carolyn Nganga-Good, Complainant's first-level supervisor, terminated Complainant's telework agreement and alternative work schedule after learning that telework was an effective reasonable accommodation for Complainant's panic attack symptoms. ***See September 21, 2022 Notice of Leave Restriction and Suspension of AWS and Telework attached.***
9. On September 21, 2022, Carolyn Nganga-Good, Complainant's first-level supervisor, terminated Complainant's telework agreement and alternative work schedule after learning that Complainant used and needed these schedule flexibilities for her reasonable accommodation needs. ***September 21, 2022 Notice of Leave Restriction and Suspension of AWS and Telework attached.***
10. On or around September 21, 2022, Kelli Lee, Labor and Employee Relations Specialist, misused previously learned medical information about Complainant for the purpose of supporting the Agency's retaliatory termination of her schedule flexibilities.
11. On September 21, 2022, Carolyn Nganga-Good, Complainant's first-level supervisor, tried to intimidate Complainant by threatening to charge her with AWOL or disciplinary action/adverse action if Complainant continued to use leave or participate in telework. ***September 21, 2022 Notice of Leave Restriction and Suspension of AWS and Telework attached.***

12. On September 21, 2022, Complainant's first-level supervisor, Carolyn Nganga-Good, pressured Complainant to forgo evidence of electronic surveillance in support of claims for this instant complaint. ***September 21, 2022 Notice of Leave Restriction and Suspension of AWS and Telework attached.***
13. On September 22, 2022, Complainant's first-level supervisor, Carolyn Nganga-Good pressured Complainant to meet tighter deadlines than what was agreed upon in the Performance Appraisal Plan. ***Emails attached.***
14. On September 28, 2022, Complainant's first-level supervisor, Carolyn Nganga-Good, instructed the Division's timekeeper, Sheena Gaskill, to remove telework from Complainant's Timecard and Schedule for 6 months. ***Emails attached.***
15. On September 29, 2022, Complainant's first-level supervisor, Carolyn Nganga-Good, denied Complainant's official time request related to Complainant's participation in the EEO investigation of this instant complaint. ***Emails attached.***
16. On October 4, 2022, Complainant's first-level supervisor, Carolyn Nganga-Good attempted to intimidate Complainant by wrongly accusing her of misconduct. ***Emails attached.***
17. On October 5, 2022, The Agency refused to engage in the interactive process with Complainant with regards to her reasonable accommodation needs. ***Emails attached.***
18. On October 5, 2022, Complainant's first-level supervisor, Carolyn Nganga-Good refused to answer Complainant's questions and provide clarification regarding her September 21, 2022 instructions. ***Emails attached.***
19. From April 1, 2022 to October 5, 2022, Complainant's concerns of harassment and retaliation were dismissed and referred to an Employee Assistance Program (EAP) that is not equipped to address and enforce anti-harassment policies in the workplace. ***Emails attached.***

20. From April 1, 2022 to October 5, 2022, the Agency refused to investigate or act on Complainant's concerns of harassment, discrimination and retaliation. ***Emails attached.***
21. From April 1, 2022 to October 5, 2022, Complainant's second-level supervisor, Melissa Moore, failed and refused to act on Complainant's escalated concerns of harassment, discrimination and retaliation. ***Emails attached.***
22. From April 1, 2022 to October 5, 2022, Complainant's third-level supervisor, David Loewenstein, failed and refused to act on Complainant's escalated concerns of harassment, discrimination and retaliation. ***Emails attached.***
23. From April 1, 2022 to October 5, 2022, Complainant's forth-level supervisor, Luis Padilla, failed and refused to act on Complainant's escalated concerns of harassment, discrimination and retaliation. ***Emails attached.***
24. From April 1, 2022 to October 5, 2022, Complainant's fifth-level supervisor, Carole Johnson, failed and refused to act on Complainant's escalated concerns of harassment, discrimination and retaliation. ***Emails attached.***

CONCLUSION

Ms. Rausch respectfully requests that this motion to amend her complaint in this instant case be granted, and reserves all rights to supplement this motion with further supporting documentation and legal argument if necessary.

Respectfully Submitted,

Claudia Rausch
4938 Hampden Lane
Bethesda, MD 20814
Phone: 915-422-4583
email:claudiamaraus@hotmai.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing COMPLAINANT'S
SECOND MOTION TO AMEND COMPLAINT, was served by the methods indicated
below to the individuals on October 5, 2022.

Respectfully Submitted,

Claudia Rausch
Complainant

By Electronic Mail / FEDSEP
Anthony Archeval
aarcheval@hrsa.gov

By FEDSEP
HHS Attorney of Record

By FEDSEP
Administrative Judge
Equal Employment Opportunity Commission

From: [Rausch, Claudia \(HRSA\)](#)
To: [Nganga-Good, Carolyn \(HRSA\)](#)
Cc: [Moore, Melissa \(HRSA\)](#); [Loewenstein, David \(HRSA\)](#); [Padilla, Luis \(HRSA\)](#); [Johnson, Carole \(HRSA\)](#); [Ganey, Catherine \(HRSA\)](#); [Lee, Kelli \(HRSA\)](#); [Archeval, Anthony \(HRSA\)](#); [eeocomplaints](#); [Toledo, Oscar \(HRSA\)](#); [Washington, Angela \(HRSA\)](#); [Rausch, Claudia \(HRSA\)](#); [Deborah Iyiade \(HRSA\)](#) (DIyiade@hrsa.gov); claudiamarauschk@hotmail.com
Subject: RE: Out sick
Date: Thursday, September 15, 2022 7:01:00 AM
Importance: High

Dear Carolyn:

Thank you for your email. I hope your day is off to a great start.

In response to your September 7, 2022 email, please take notice that your assertion that your actions are “routine practice” and that “there is no unusual scrutiny on [my] leave balances and no one is pressuring [me] to apply for FMLA”....” does not circumvent the fact that I believe your actions amount to harassment, retaliation, and discrimination. Nor does your assertion have any bearing on the fact that my belief of this alone, entitles me to seek resolution of the matter through the EEO complaint process.

Please also take notice that I believe your September 7, 2022 attempt to discredit my claims of discrimination violate the EEOC’s Guidance on Anti-Harassment, applicable whistleblower laws, and the Agency’s Anti-Harassment policies, and also amounts to unlawful retaliation and discrimination.

Specifically, I believe your actions are being done in retaliatory intent, are part of a pattern of retaliatory harassment, and in response to my protected EEO activity, protected-opposition, and whistleblower activity. I also believe you are discriminating against me and treating me differently because I’m a Hispanic, Mexican-American Female. I also believe I’m being discriminated against by you because I have a disability (perceived or otherwise) that you are well aware of and that the Agency failed and refused to accommodate since at least Spring of 2020. I would not have needed to use so much leave if the Agency would have provided me with a reasonable accommodation as required by law, which I requested around March of 2020. I believe you and the Agency are purposely attempting to overwhelm me with retaliatory actions in effort to push me out and pursue a constructive discharge of my employment.

Consequently, I believe the Agency’s actions, to include all mentioned in my previous allegations of discrimination and retaliation, amount to unlawful discrimination and retaliation on the different protected status and bases I’ve specified above. As we were not able to reach a resolution on this matter, please consider this email as notice that I intend to pursue a new claim on the matter and your September 7, 2022 efforts to discredit my claims of retaliation and discrimination, through the EEO complaint process.

In effort to exhaust any remedial processes available to me by the Agency, I have carbon copied my second-level through fifth-level supervisors, the Human Resources Office and the EEO office. All Agency management officials and parties copied on this email, should consider this correspondence a report from me regarding my concerns of retaliation and discrimination as described above.

Your time and attention to this matter is greatly appreciated. Have a wonderful weekend.

Respectfully,

Claudia Rausch
Management Analyst
Policy and Disputes Branch
National Practitioner Data Bank
HHS | HRSA | Bureau of Health Workforce (BHW)
): 301-945-3059| 3: crausch@hrsa.gov

BE INNOVATIVE. HAVE ACCOUNTABILITY. WORK COLLABORATIVELY.

-----Original Message-----

From: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>
Sent: Wednesday, September 7, 2022 12:08 PM
To: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Cc: Moore, Melissa (HRSA) <MMoore1@hrsa.gov>; Loewenstein, David (HRSA) <DLoewenstein@hrsa.gov>
Subject: RE: Out sick

Claudia,

Please note that it is routine practice to notify employees when their leave is dwindling to low levels based on their usage, to provide options they may utilize if needed, and expectations for requests for advance leave or leave without pay, just like it is routine to notify employees when they have anticipated use or lose leave. Therefore, there is no unusual scrutiny on your leave balances and no one is pressuring you to apply for FMLA.

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
Chief, Policy and Disputes Branch
Division of Practitioner Data Bank
Bureau of Health Workforce
Health Resources and Services Administration
5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-2251
Email: cnganga-good@hrsa.gov
HRSA/National Practitioner Data Bank

-----Original Message-----

From: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Sent: Tuesday, September 6, 2022 4:24 AM
To: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>
Cc: claudiamarausch@hotmail.com; Moore, Melissa (HRSA) <MMoore1@hrsa.gov>; Loewenstein, David (HRSA) <DLoewenstein@hrsa.gov>; Padilla, Luis (HRSA) <LPadilla@hrsa.gov>; Johnson, Carole (HRSA) <Carole.Johnson@hrsa.gov>; Ganey, Catherine (HRSA) <CGaney@hrsa.gov>; Lee, Kelli (HRSA) <KLee@hrsa.gov>; Archeval, Anthony (HRSA) <AArcheval@hrsa.gov>; eeocomplaints <eeocomplaints@hrsa.gov>
Subject: RE: Out sick

Hi Carolyn,

Please take notice that I believe your scrutiny of my leave use, newly imposed restrictions and policies on my use of leave, and you pressuring me to apply for FMLA, amount to retaliation for protected EEO-activity, protected-opposition and perceived whistleblower activity; evidence a pattern of retaliatory harassment, and are also discriminatory on your part because I am a Hispanic, Mexican-American, Female.

Your time and attention to this matter is greatly appreciated.

Respectfully,

Claudia Rausch
Management Analyst
Policy and Disputes Branch
National Practitioner Data Bank
HHS | HRSA | Bureau of Health Workforce (BHW)
): 301-945-3059| 3: crausch@hrsa.gov

BE INNOVATIVE. HAVE ACCOUNTABILITY. WORK COLLABORATIVELY.

-----Original Message-----

From: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>
Sent: Tuesday, August 23, 2022 11:15 AM
To: Claudia Marie Rausch <claudiamarausch@hotmail.com>; Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Cc: Moore, Melissa (HRSA) <MMoore1@hrsa.gov>
Subject: RE: Out sick

Hi Claudia,

Thank you for the notification about your sick leave today. I hope you feel better.

I would also like to provide you follow up notice (last notice sent on May 23, 2022) in regards to your attendance, leave balances, and expectations.

As of 8/20/2022, you had 37.75 hours of annual leave (AL) and 4 hours of sick leave (SL) available, minus the unspecified 16 hours you requested for yesterday and today. As requested in the past, please specify what type of leave you intend to use with your future leave request notifications.

In the event you require advanced leave for an absence, such as leave without pay (LWOP), advance annual or advanced sick leave, you must request the leave using the attached 711 form. I will also require acceptable documentation before I approve any advanced leave request.

I would also like to provide you a few programs that you may avail yourself of, if needed.

FMLA:

For an extended leave of absence due to medical reasons, you may be eligible for leave under the Family and Medical Leave Act (FMLA). If you qualify, you are entitled to up to 12 administrative workweeks of unpaid leave (leave without pay), or you may elect to substitute available paid annual and/or sick leave as appropriate, during any 12 month period for a serious health condition. Medical documentation must be received and reviewed to determine if the leave is for FMLA-qualifying reasons. If you choose to invoke your rights under the FMLA, you must inform me and have your health care provider complete a FMLA form. The appropriate forms can be obtained by contacting FMLArequests@hrsa.gov, or from the OHR SharePoint site: <https://sharepoint.hrsa.gov/oo/ohr/SitePages/Leave%20and%20Work%20Schedules.aspx>. Please be sure to have the completed forms returned to FMLArequests@hrsa.gov within 15 days of when you invoke your rights.

VLTP:

The Voluntary Leave Transfer Program (VLTP) allows employees to request donated leave from other Federal employees if they do not have enough leave to cover medical emergencies (or family medical emergencies). In order to become a VLTP recipient, you must complete the Voluntary Leave Transfer Program (VLTP) Leave Recipient Application, as well as provide documentation from your physician (or appropriate provider) showing nature, severity and expected duration of the illness. For more information on the Voluntary Leave Transfer Program, please contact your Office/Bureau VLTP representative.

FMLA and VLTP SharePoint:

<https://sharepoint.hrsa.gov/oo/ohr/SitePages/Leave%20and%20Work%20Schedules.aspx>

* For questions, contact Deborah Iyiade, LER Specialist, DIyiade@hrsa.gov

Email: FMLArequests@HRSA.gov

Email: HRS AVLTP@hrsa.gov

Employee Assistance Program (EAP):

EAP is available to counsel employees who may be experiencing personal problems that may be affecting them. If you believe the EAP program may be helpful, you may avail yourself of these services by calling 1-800-222-0364.

Reasonable Accommodations:

Reasonable Accommodations (RA) may be able to provide some accommodation for you. Please contact the office at, email RA-Request@hrsa.gov or call 301-443-5636.

Or contact ASKHR@hrsa.gov with any questions.

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
Chief, Policy and Disputes Branch
Division of Practitioner Data Bank
Bureau of Health Workforce
Health Resources and Services Administration
5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-2251
Email: cnganga-good@hrsa.gov
HRSA/National Practitioner Data Bank

-----Original Message-----

From: Claudia Marie Rausch <claudiamarausch@hotmail.com>

Sent: Tuesday, August 23, 2022 9:20 AM

To: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>

Cc: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>; Moore, Melissa (HRSA) <MMoore1@hrsa.gov>

Subject: [EXTERNAL] Re: Out sick

Hi Carolyn,

I'm emailing you to let you know I'm not feeling well and will be out on leave today too.

I'll update ITAS as soon as I log in and am able to.

Thanks,

Claudia Rausch

> On Aug 22, 2022, at 9:50 AM, Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov> wrote:

>

> Hi Carolyn,

>

> I'm emailing you to let you know I'm not feeling well and will be out on leave today.

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> I'll update ITAS as soon as I log in and am able to.

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> Thanks,

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and are confident the content is safe.

From: [Nganga-Good, Carolyn \(HRSA\)](#)
To: [Claudia Marie Rausch](#); [Rausch, Claudia \(HRSA\)](#)
Cc: [Moore, Melissa \(HRSA\)](#)
Subject: RE: Out sick
Date: Tuesday, August 23, 2022 11:15:44 AM
Attachments: [Request for Advanced Leave Request - Form HRSA-711.pdf](#)

Hi Claudia,

Thank you for the notification about your sick leave today. I hope you feel better.

I would also like to provide you follow up notice (last notice sent on May 23, 2022) in regards to your attendance, leave balances, and expectations.

As of 8/20/2022, you had 37.75 hours of annual leave (AL) and 4 hours of sick leave (SL) available, minus the unspecified 16 hours you requested for yesterday and today. As requested in the past, please specify what type of leave you intend to use with your future leave request notifications.

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Email: FMLArequests@HRSA.gov

Email: HRSAVLTP@hrsa.gov

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EAP is available to counsel employees who may be experiencing personal problems that may be affecting them. If you believe the EAP program may be helpful, you may avail yourself of these services by calling 1-800-222-0364.

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Reasonable Accommodations (RA) may be able to provide some accommodation for you. Please contact the office

at, email RA-Request@hrsa.gov or call 301-443-5636.

Or contact ASKHR@hrsa.gov with any questions.

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
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Division of Practitioner Data Bank
Bureau of Health Workforce
Health Resources and Services Administration
5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-2251
Email: cnganga-good@hrsa.gov
HRSA/National Practitioner Data Bank

-----Original Message-----

From: Claudia Marie Rausch <claudiamarausch@hotmail.com>

Sent: Tuesday, August 23, 2022 9:20 AM

To: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>

Cc: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>; Moore, Melissa (HRSA) <MMoore1@hrsa.gov>

Subject: [EXTERNAL] Re: Out sick

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Claudia Rausch

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> Thanks,

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and are confident the content is safe.

NOTIFICATION OF PERSONNEL ACTION

1. Name (Last, First, Middle) RAUSCH, CLAUDIA M						2. Social Security Number 467-73-9904		3. Date of Birth 08/10/1985		4. Effective Date 08/29/2022															
FIRST ACTION						SECOND ACTION																			
5-A. Code 450		5-B. Nature of Action SUSPENSION NTE 09/04/2022				6-A. Code		6-B. Nature of Action																	
5-C. Code VAC		5-D. Legal Authority 5 U.S.C. 7502. SUSPENSION FOR 14 DAYS OR LESS				6-C. Code		6-D. Legal Authority																	
5-E. Code		5-F. Legal Authority				6-E. Code		6-F. Legal Authority																	
7. FROM: Position Title and Number MANAGEMENT ANALYST PD:15R587 POSITION:00373972						15. TO: Position Title and Number																			
8. Pay Plan GS	9. Occ. Code 0343	10. Grade or Level 13	11. Step or Rate 05	12. Total Salary \$121,065.00	13. Pay Basis PA	16. Pay Plan	17. Occ. Code	18. Grade or Level	19. Step or Rate	20. Total Salary/Award	21. Pay Basis														
12A. Basic Pay \$92,044.00		12B. Locality Adj. \$29,021.00		12C. Adj. Basic Pay \$121,065.00		12D. Other Pay \$0		20A. Basic Pay		20B. Locality Adj.	20C. Adj. Basic Pay	20D. Other Pay													
14. Name and Location of Position's Organization HEALTH RESOURCES AND SERVICES ADMINISTRATION BUREAU OF HEALTH WORKFORCE DIVISION OF PRACTITIONER DATA BANK POLICY AND DISPUTES BRANCH ROCKVILLE MD USA						22. Name and Location of Position's Organization																			
EMPLOYEE DATA																									
23. Veterans Preference <table><tr><td>1</td><td>1 - None 2 - 5-Point</td><td>3 - 10-Point/Disability 4 - 10-Point/Compensable</td><td>5 - 10-Point/Other 6 - 10-Point/Compensable/30%</td></tr></table>						1	1 - None 2 - 5-Point	3 - 10-Point/Disability 4 - 10-Point/Compensable	5 - 10-Point/Other 6 - 10-Point/Compensable/30%	24. Tenure <table><tr><td>1</td><td>0 - None 1 - Permanent</td><td>2 - Conditional 3 - Indefinite</td></tr></table>			1	0 - None 1 - Permanent	2 - Conditional 3 - Indefinite	25. Agency Use <table><tr><td></td><td></td></tr></table>				26. Veterans Preference for RIF <table><tr><td></td><td>YES</td><td>X</td><td>NO</td></tr></table>			YES	X	NO
1	1 - None 2 - 5-Point	3 - 10-Point/Disability 4 - 10-Point/Compensable	5 - 10-Point/Other 6 - 10-Point/Compensable/30%																						
1	0 - None 1 - Permanent	2 - Conditional 3 - Indefinite																							
	YES	X	NO																						
27. FEGLI <table><tr><td>C0</td><td>BASIC ONLY</td></tr></table>						C0	BASIC ONLY	28. Annuitant Indicator <table><tr><td>9</td><td>NOT APPLICABLE</td></tr></table>			9	NOT APPLICABLE	29. Pay Rate Determinant <table><tr><td>0</td><td>REGULAR RATE</td></tr></table>			0	REGULAR RATE								
C0	BASIC ONLY																								
9	NOT APPLICABLE																								
0	REGULAR RATE																								
30. Retirement Plan <table><tr><td>K</td><td>FERS AND FICA</td></tr></table>				K	FERS AND FICA	31. Service Comp. Date (Leave) 07/06/2010		32. Work Schedule <table><tr><td>F</td><td>FULL TIME</td></tr></table>			F	FULL TIME	33. Part-Time Hours Per Biweekly Pay Period												
K	FERS AND FICA																								
F	FULL TIME																								
POSITION DATA																									
34. Position Occupied <table><tr><td>1</td><td>1 - Competitive Service 2 - Excepted Service</td><td>3 - SES General 4 - SES Career Reserved</td></tr></table>				1	1 - Competitive Service 2 - Excepted Service	3 - SES General 4 - SES Career Reserved	35. FLSA Category <table><tr><td>E</td><td>E - Exempt N - Nonexempt</td></tr></table>		E	E - Exempt N - Nonexempt	36. Appropriation Code 23709028			37. Bargaining Unit Status 3591											
1	1 - Competitive Service 2 - Excepted Service	3 - SES General 4 - SES Career Reserved																							
E	E - Exempt N - Nonexempt																								
38. Duty Station Code 241360031				39. Duty Station (City - County - State or Overseas Location) ROCKVILLE MONTGOMERY MD USA																					
40. Agency Data		41.		42.		43.		44. PAR NUMBER:																	
45. Remarks IF YOU ENTER A LEAVE WITHOUT PAY STATUS OR ANY OTHE TYPE OF NONPAY STATUS OR YOUR PAY IS INSUFFICIENT TO COVER YOUR FEHB PREMIUM, THEN YOU MUST ELECT TO EITHER (1) TERMINATE YOUR ENROLLMENT IN FEHB, OR (2) CONTINUE IT FOR UP TO 365 DAYS AND AGREETO PAY THE PREMIUM OR INCUR A DEBT. IF YOU DO NOT ELECT TO TERMINATE OR CONTINUE YOUR ENROLLMENT, IT AUTOMATICALLY TERMINATES AT THE END OF THE LAST PAY PERIOD IN WHICH YOU PAID PREMIUMS. CONTACT YOUR SERVICING HUMAN RESOURCES OFFICE OR SEE THE FEHB HANDBOOK AT HTTP://WWW.OPM.GOV/INSURE FOR DETAILED INFORMATION. FEGLI COVERAGE CONTINUES UNTIL YOUR TIME IN NONPAY STATUS TOTALS 12 MONTHS. (IF WHILE IN NOPAY STATUS YOU RECEIVE PAY DURING ANY PART OF A PAY PERIOD, YOU ARE NOT CONSIDERED TO BE IN NONPAY STATUS FOR FEGLI PURPOSES). CONTACT YOUR SERVICING HUMAN RESOURCES OFFICE OR SEE THE FEGLI HANDBOOK AT HTTP://WWW.OPM.GOV/INSURE FOR DETAILED INFORMATION. SERVICE CREDIT FOR RETIREMENT, REDUCTION-IN-FORCE, AND LEAVE ACCRUAL PURPOSES CONTINUES FOR UP TO A MAXIMUM OF 6 MONTHS IN NONPAY STATUS PER CALENDAR YEAR. FORWARDING ADDRESS: 5401 MCGRATH BLVD APT 212, NORTH BETHESDA, MD 20852 REASON FOR SUSPENSION: 1) DISRESPECTFUL COMMENTS TOWARDS SUPERVISOR(S); 2) FAILURE TO FOLLOW INSTRUCTIONS																									
46. Employing Department or Agency DEPARTMENT OF HEALTH AND HUMAN SERVICES						50. Signature/Authentication and Title of Approving Official ELECTRONICALLY SIGNED BY: CATHERINE M. GANEY DIRECTOR, HUMAN RESOURCES CENTER																			
47. Agency Code HE34		48. Personnel Office ID 4184		49. Approval Date 09/07/2022																					



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Resources and Services Administration

Rockville, Maryland 20857

September 6, 2022

Administrative Judge
Equal Employment Opportunity Commission (EEOC)
Baltimore Field Office - Hearing Unit
GH Fallon Federal Building
31 Hopkins Plaza, Suite 1432
Baltimore, MD 21201

RE: Notice to EEOC
***EEO Complaint of Claudia Rausch v. Xavier Becerra, Secretary,
U.S. Department of Health and Human Services***
HHS EEO Case No.: HHS-HRSA-0061-2022

Dear Administrative Judge:

This is to inform you of the current status of the EEO complaint filed by Claudia Rausch (Complainant) on January 3, 2022 (see attachment A). On January 18, 2022, the Office of Civil Rights, Diversity and Inclusion (OCRDI) acknowledged receipt of the formal complaint (see attachment B). On February 3, OCRDI issued a request for clarification of Complainant's alleged allegations of discrimination due to broad and confusing information provided, but Complainant provided no clarification. On May 23, 2022, Complainant amended her pending complaint to include additional incidents of harassment. On June 1, 2022, Complainant, again, amended her complaint to include additional incidents of harassment. Upon review of extensive documentation submitted by Complainant, OCRDI issued a Partial Letter of Acceptance on August 8, 2022 (see attachment C), as numerous allegations were previously raised in HHS-HRSA-1024-2019. On August 9, 2022, a request for investigation was issued (see attachment D). The processing of this complaint is within regulatory timeframes per the EEOC regulations, and the investigation and issuance of the Report of Investigation is expected to be completed on or before the 360-day mark which December 29, 2022.

Please let me know if you need additional information or further clarification.

A handwritten signature in blue ink, reading "Oscar A. Toledo", is written over a horizontal line.

Oscar A. Toledo
Chief, EEO Complaints Management
Office of Civil Rights, Diversity and Inclusion

From: [Rausch, Claudia \(HRSA\)](#)
To: [Moore, Melissa \(HRSA\)](#)
Cc: [Nganga-Good, Carolyn \(HRSA\)](#); [Loewenstein, David \(HRSA\)](#); [Padilla, Luis \(HRSA\)](#); [Johnson, Carole \(HRSA\)](#); [Ganey, Catherine \(HRSA\)](#); [Lee, Kelli \(HRSA\)](#); [Archeval, Anthony \(HRSA\)](#); [eeocomplaints](#); [Toledo, Oscar \(HRSA\)](#); [Washington, Angela \(HRSA\)](#); [Rausch, Claudia \(HRSA\)](#); [Iviade, Deborah \(HRSA\)](#); [claudiamarausch@hotmail.com](#)
Subject: RE: Out sick
Date: Thursday, September 15, 2022 8:02:46 AM
Importance: High

Dear Melissa:

Thank you for your email. I hope your day is off to a great start.

In response to your September 7, 2022 email, please take notice that your assertion that you believe the “intent” of Carolyn’s August 23, 2022 email was “to provide resources, not harassment, retaliation, or discrimination”... does not circumvent the fact that I believe her actions amount to harassment, retaliation, and discrimination. Nor does your belief and assertion have any bearing on the fact that my belief of this alone, entitles me to seek resolution of the matter through the EEO complaint process.

Please also take notice that I believe your attempt to discredit my claims of discrimination, and your failure to adequately address my concerns of unlawful retaliation and discrimination as required by the EEOC’s Guidance on Anti-Harassment, applicable whistleblower laws, and the Agency’s Anti-Harassment policies, also amounts to unlawful retaliation and discrimination.

Specifically, I believe yours and Carolyn’s actions are being done in retaliatory intent, are part of a pattern of retaliatory harassment, and done in response to my protected EEO activity, protected-opposition, and whistleblower activity. I also believe you and Carolyn are discriminating against me and treating me differently because I’m a Hispanic, Mexican-American Female. I also believe I’m being discriminated against by you and Carolyn because I have a disability (perceived or otherwise) that you and the Agency failed and refused to accommodate since at least Spring of 2020. I would not have needed to use so much leave if the Agency would have provided me with a reasonable accommodation as required by law, which I requested around March of 2020. I believe you, Carolyn, and the Agency are purposely attempting to overwhelm me with retaliatory actions in effort to push me out and pursue a constructive discharge of my employment.

Consequently, I believe the Agency’s actions, to include all my previous allegations of discrimination and retaliation, amount to unlawful discrimination and retaliation on the different protected status and bases I’ve specified above. As we were not able to reach a resolution on this matter, please consider this email as notice that I intend to pursue a new claim on the matter and your September 7, 2022 efforts to discredit my claims of retaliation and discrimination, through the EEO complaint process.

In effort to exhaust any remedial processes available to me by the Agency, I have carbon copied my third-level through fifth-level supervisors, the Human Resources Office and the EEO office. All Agency management officials and parties copied on this email, should consider this correspondence a report from me regarding my concerns of retaliation and discrimination as described above.

Your time and attention to this matter is greatly appreciated. Have a wonderful weekend.

Respectfully,

Claudia Rausch
Management Analyst
Policy and Disputes Branch
National Practitioner Data Bank
HHS | HRSA | Bureau of Health Workforce (BHW)
) 301-945-3059 | 3: crausch@hrsa.gov

BE INNOVATIVE. HAVE ACCOUNTABILITY. WORK COLLABORATIVELY.

-----Original Message-----

From: Moore, Melissa (HRSA) <MMoore1@hrsa.gov>
Sent: Wednesday, September 7, 2022 12:57 PM
To: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Cc: Loewenstein, David (HRSA) <DLoewenstein@hrsa.gov>
Subject: RE: Out sick

Claudia,

As Carolyn's supervisor, I am following up on your allegation that she is retaliating, harassing, and discriminating against you through the email chain below. All supervisors are expected to monitor leave for their direct reports. In the email below, Carolyn is notifying you of your existing leave balance, and sharing information on leave flexibilities should you need them in the future.

I believe the intent of this email is to provide resources, not harassment, retaliation, or discrimination.

Melissa B. Moore, MSW, MBA
Deputy Director, Division of Practitioner Data Bank Bureau of Health Workforce Health Resources and Services Administration
(301) 945-3332

-----Original Message-----

From: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Sent: Tuesday, September 6, 2022 4:24 AM
To: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>
Cc: claudiamarausch@hotmail.com; Moore, Melissa (HRSA) <MMoore1@hrsa.gov>; Loewenstein, David (HRSA) <DLoewenstein@hrsa.gov>; Padilla, Luis (HRSA) <LPadilla@hrsa.gov>; Johnson, Carole (HRSA) <Carole.Johnson@hrsa.gov>; Ganey, Catherine (HRSA) <CGaney@hrsa.gov>; Lee, Kelli (HRSA) <KLee@hrsa.gov>; Archeval, Anthony (HRSA) <AArcheval@hrsa.gov>; eeocomplaints <eeocomplaints@hrsa.gov>
Subject: RE: Out sick

Hi Carolyn,

Please take notice that I believe your scrutiny of my leave use, newly imposed restrictions and policies on my use of leave, and you pressuring me to apply for FMLA, amount to retaliation for protected EEO-activity, protected-opposition and perceived whistleblower activity; evidence a pattern of retaliatory harassment, and are also discriminatory on your part because I am a Hispanic, Mexican-American, Female.

Your time and attention to this matter is greatly appreciated.

Respectfully,

Claudia Rausch
Management Analyst
Policy and Disputes Branch
National Practitioner Data Bank
HHS | HRSA | Bureau of Health Workforce (BHW)
) 301-945-3059 | 3: crausch@hrsa.gov

BE INNOVATIVE. HAVE ACCOUNTABILITY. WORK COLLABORATIVELY.

-----Original Message-----

From: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>

Sent: Tuesday, August 23, 2022 11:15 AM

To: Claudia Marie Rausch <claudiamarausch@hotmail.com>; Rausch, Claudia (HRSA) <CRausch@hrsa.gov>

Cc: Moore, Melissa (HRSA) <MMoore1@hrsa.gov>

Subject: RE: Out sick

Hi Claudia,

Thank you for the notification about your sick leave today. I hope you feel better.

I would also like to provide you follow up notice (last notice sent on May 23, 2022) in regards to your attendance, leave balances, and expectations.

As of 8/20/2022, you had 37.75 hours of annual leave (AL) and 4 hours of sick leave (SL) available, minus the unspecified 16 hours you requested for yesterday and today. As requested in the past, please specify what type of leave you intend to use with your future leave request notifications.

In the event you require advanced leave for an absence, such as leave without pay (LWOP), advance annual or advanced sick leave, you must request the leave using the attached 711 form. I will also require acceptable documentation before I approve any advanced leave request.

I would also like to provide you a few programs that you may avail yourself of, if needed.

FMLA:

For an extended leave of absence due to medical reasons, you may be eligible for leave under the Family and Medical Leave Act (FMLA). If you qualify, you are entitled to up to 12 administrative workweeks of unpaid leave (leave without pay), or you may elect to substitute available paid annual and/or sick leave as appropriate, during any 12 month period for a serious health condition. Medical documentation must be received and reviewed to determine if the leave is for FMLA-qualifying reasons. If you choose to invoke your rights under the FMLA, you must inform me and have your health care provider complete a FMLA form. The appropriate forms can be obtained by contacting FMLArequests@hrsa.gov, or from the OHR SharePoint site:

<https://sharepoint.hrsa.gov/oo/ohr/SitePages/Leave%20and%20Work%20Schedules.aspx>. Please be sure to have the completed forms returned to FMLArequests@hrsa.gov within 15 days of when you invoke your rights.

VLTP:

The Voluntary Leave Transfer Program (VLTP) allows employees to request donated leave from other Federal employees if they do not have enough leave to cover medical emergencies (or family medical emergencies). In order to become a VLTP recipient, you must complete the Voluntary Leave Transfer Program (VLTP) Leave Recipient Application, as well as provide documentation from your physician (or appropriate provider) showing nature, severity and expected duration of the illness. For more information on the Voluntary Leave Transfer Program, please contact your Office/Bureau VLTP representative.

FMLA and VLTP SharePoint:

<https://sharepoint.hrsa.gov/oo/ohr/SitePages/Leave%20and%20Work%20Schedules.aspx>

* For questions, contact Deborah Iyiade, LER Specialist, DIyiade@hrsa.gov

Email: FMLArequests@HRSA.gov

Email: HRSAVLTP@hrsa.gov

Employee Assistance Program (EAP):

EAP is available to counsel employees who may be experiencing personal problems that may be affecting them. If you believe the EAP program may be helpful, you may avail yourself of these services by calling 1-800-222-0364.

Reasonable Accommodations:

Reasonable Accommodations (RA) may be able to provide some accommodation for you. Please contact the office at, email RA-Request@hrsa.gov or call 301-443-5636.

Or contact ASKHR@hrsa.gov with any questions.

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
Chief, Policy and Disputes Branch
Division of Practitioner Data Bank
Bureau of Health Workforce
Health Resources and Services Administration
5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-2251
Email: cnganga-good@hrsa.gov
HRSA/National Practitioner Data Bank

-----Original Message-----

From: Claudia Marie Rausch <claudiamarausch@hotmail.com>

Sent: Tuesday, August 23, 2022 9:20 AM

To: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>

Cc: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>; Moore, Melissa (HRSA) <MMoore1@hrsa.gov>

Subject: [EXTERNAL] Re: Out sick

Hi Carolyn,

I'm emailing you to let you know I'm not feeling well and will be out on leave today too.

I'll update ITAS as soon as I log in and am able to.

Thanks,

Claudia Rausch

> On Aug 22, 2022, at 9:50 AM, Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov> wrote:

>

> Hi Carolyn,

>

> I'm emailing you to let you know I'm not feeling well and will be out on leave today.

>

> I'll update ITAS as soon as I log in and am able to.

>

> Thanks,

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and are confident the content is safe.

From: ewinfrey@dszonline.com
To: [Rausch, Claudia \(HRSA\)](#)
Cc: claudiamarauschk@hotmail.com
Subject: [EXTERNAL] Eric Winfrey - DSZ & Associates, Inc. - Authorized Investigator -- HHS-HRSA-0061-2022 (2)
Date: Tuesday, September 13, 2022 1:15:05 PM
Attachments: [C.R. - LOA -- HHS-HRSA-0061-2022pdf.pdf](#)
Importance: High

Good afternoon, Ms. Claudia Rausch -

I am the EEO Investigator assigned to your claim of discrimination filed against the Department of Health and Human Services (DHHS), Health Resources and Services Administration (HRSA). I do not represent the interests of any of the parties in these complaints; moreover, I serve as an objective fact-finder and make no decisions or recommendations.

Please see my attached letter of authorization (LOA). Further, I have a few documents (Designation of Representative, Right to Remedies, and Privacy Act) I need you to review. I also have an initial interrogatory for your review and response.

NOTE: I called your cell phone this afternoon; however, it was off.

I would appreciate it if you would confirm receipt of this communication by return email.

Best regards,

--

Eric Winfrey
Contract EEO Investigator
DSZ, Inc.
910.916.8716 (Cell)

Confidentiality Notice: This is intended for the sole use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be strictly prohibited. If you have received this communication in error, please notify the sender immediately.

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From: [Nganga-Good, Carolyn \(HRSA\)](#)
To: [Rausch, Claudia \(HRSA\)](#)
Cc: [Moore, Melissa \(HRSA\)](#); [Loewenstein, David \(HRSA\)](#); [Lee, Kelli \(HRSA\)](#)
Subject: RE: Follow-Up on Sept. 14, 2022 1+1 Meeting
Date: Thursday, September 22, 2022 11:46:32 AM

Claudia,

An 11-week timeline for a case assigned in June and which you have had an RFI response since July is unacceptable. As informed in my previous email, your colleagues, some of who have way higher caseloads than you have, have an average completion rate of about 4-6 weeks. Unless you have identified concrete complexities with this case that I should be aware of, I need this case completed and sent to the peer reviewer no later than October 21st and plan to provide ongoing updates on the progress during your biweekly 1:1 meetings.

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
Chief, Policy and Disputes Branch
Division of Practitioner Data Bank
Bureau of Health Workforce
Health Resources and Services Administration
5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-2251
Email: cnganga-good@hrsa.gov
[HRSA/National Practitioner Data Bank](#)



From: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Sent: Wednesday, September 21, 2022 6:14 PM
To: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>
Cc: Moore, Melissa (HRSA) <MMoore1@hrsa.gov>; Loewenstein, David (HRSA) <DLoewenstein@hrsa.gov>; Lee, Kelli (HRSA) <KLee@hrsa.gov>
Subject: RE: Follow-Up on Sept. 14, 2022 1+1 Meeting

Hi Carolyn,

Per your request, my anticipated timeline for completing the second dispute case is – I should have the dispute case done by December 10, 2022.

Thank you,

Claudia Rausch

Management Analyst

Policy and Disputes Branch

[National Practitioner Data Bank](#)

HHS | HRSA | Bureau of Health Workforce (BHW)

☎: 301-945-3059 | ✉: crausch@hrsa.gov

BE INNOVATIVE. HAVE ACCOUNTABILITY. WORK COLLABORATIVELY.

From: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>

Sent: Thursday, September 15, 2022 12:25 PM

To: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>

Cc: Moore, Melissa (HRSA) <MMoore1@hrsa.gov>; Loewenstein, David (HRSA) <DLoewenstein@hrsa.gov>; Lee, Kelli (HRSA) <KLee@hrsa.gov>

Subject: RE: Follow-Up on Sept. 14, 2022 1+1 Meeting

Hi Claudia,

I am doing the job that I was hired to do; oversee and manage the work and staff of the Policy and Disputes Branch. You are being held to the same standards as your colleagues and I would be asking the same questions and enforcing the same policies in similar circumstances.

As I informed you yesterday, it is unreasonable for you to state that you plan to complete a case within the target goal of six months for a case that you were assigned on 6/24/2022 and received a response to your request for information (RFI) on 7/28/2022. A timeline of within six months can be as long as three months from the time of our meeting while a non-complex case normally takes your colleagues on average about 4-6 weeks to complete after they receive the RFI response. Similarly, in your first case that was assigned on 3/24/2022, you received the RFI response on 4/27/2022 and per your new timeline of sending the draft to the peer reviewer within 10 days from our meeting day, this case will have exceeded the six-month goal by the time it is completed and closed even without any complexities that could potentially delay a case e.g. needing OGC review. That is why I have often encouraged you to plan to work on your cases and other assignments as soon as they are assigned to accommodate any unexpected delays and to ensure a timely response to our customers.

As you are aware and as explained to you and Team members on multiple occasions, the six-month metric on PMAPs and Disputes Guidelines is a target goal for closing cases and we are all expected to be responsive to our customers in a timely fashion. Therefore making a practitioner wait for several months for a dispute decision for no cause is unreasonable. This is not the first time we were discussing this or the dispute resolution process metrics and expectations. Plus every practice or process step details, some of which have existed from the inception of the program, may not always be documented in policies or PMAPs; they are common/standard practices that each Team member should be aware of. If something is unclear or not being adhered to, I will clarify it to you and Team members as needed, and you do the same if something is not clear to you.

You explained that you would need to review the RFI response to determine how complex the case might be and therefore it was difficult for you to provide a concrete timeline until then. As you are aware and as explained to you and Team members on a couple of occasions, the standard practice is to review the RFI response soon after the DRM receives it to ensure that the reporting entity adequately responded to the RFI and determine if follow-up is needed. You received the RFI response on 7/28/2022 and had not reviewed it per your statement. You are being held to the same standards and therefore, as informed yesterday, **please send me the anticipated timeline for completing the second case no later than COB on 9/21/2022.**

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
Chief, Policy and Disputes Branch
Division of Practitioner Data Bank
Bureau of Health Workforce
Health Resources and Services Administration
5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-2251
Email: cnganga-good@hrsa.gov
HRSA/National Practitioner Data Bank

-----Original Message-----

From: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Sent: Thursday, September 15, 2022 8:03 AM
To: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>
Cc: Moore, Melissa (HRSA) <MMoore1@hrsa.gov>; Loewenstein, David (HRSA) <DLoewenstein@hrsa.gov>; Padilla, Luis (HRSA) <LPadilla@hrsa.gov>; Johnson, Carole (HRSA) <Carole.Johnson@hrsa.gov>; Ganey, Catherine (HRSA) <CGaney@hrsa.gov>; Lee, Kelli (HRSA) <KLee@hrsa.gov>; Archeval, Anthony (HRSA) <AArcheval@hrsa.gov>; eeocomplaints <eeocomplaints@hrsa.gov>; Toledo, Oscar (HRSA) <OToledo@hrsa.gov>; Rausch, Claudia (HRSA) <CRausch@hrsa.gov>; Iyiade, Deborah (HRSA) <Dlyiade@hrsa.gov>; claudiamarausch@hotmail.com
Subject: Follow-Up on Sept. 14, 2022 1+1 Meeting
Importance: High

Dear Carolyn:

I hope your day is off to a great start.

To recap on our conversation during our 1+1 meeting yesterday, I reasonably believe your increased scrutiny of my work, increased pressure on me to set tighter deadlines than the target goals on my PMAP, is done in retaliatory intent, part of a pattern of retaliatory harassment, and done in response to my protected EEO activity, protected-opposition, and whistleblower activity. I also believe you are discriminating against me and treating me differently because I'm a Hispanic, Mexican-American Female. I also believe I'm being discriminated against by you because I have a disability (perceived or otherwise) that the agency has failed to accommodate since at least Spring of 2020, which you have been aware of since Summer or Fall of 2020.

Accordingly, please take notice that I intend to file another claim of discrimination and retaliation on this new September 14, 2022 incident, since reaching resolution by communicating these concerns to you and higher management has proven to be unsuccessful.

In effort to exhaust any remedial processes available to me by the Agency, I have carbon copied my second-level through fifth-level supervisors, the Human Resources Office and the EEO office. All Agency management officials and parties copied on this email, should consider this correspondence a report from me regarding my concerns of retaliation and discrimination as described above and further below.

In summary, yesterday you asked me when I plan to have a dispute case done, which was assigned to me 2 and half months ago. I informed you that I plan to have it completed by the 6 months from the date you assigned it to me, which is the goal turnaround time specified on our 2022 Performance Management Appraisal Program (PMAP). Beginning yesterday, you indicated you are no longer satisfied with that goal timeframe and asked me to complete it earlier and criticized the steps have taken thus far to work on it. This has created a lot of confusing guidance because I have already planned my tasks around the initial goal turnaround time of 6 months from the date it's assigned. Yesterday is also the first time you or anyone at HRSA has scrutinized the timeframe in which I take specific steps, to reach the 6 month goal of completing a dispute case. Specifically, the timeframe in which I review and analyzed the entity's response to the Request for Information. I also don't believe other employees are being held to the same strict guidelines and stricter timeframes which are notably not specified on our PMAPs or policies; accordingly I believe I'm being discriminated against on the basis(s) indicated above.

In communicating this to you, you stated "not everything we do in practice is going to be in writing, and that it is common practice, and those who are deviating are deviating from standard practice". You also stated "We cannot document everything" and "common tasks that are standard practice" are not going to be specified in written instructions. With all due respect, I don't understand how employees are supposed to know the exact timeframe in which you expect an RFI to be reviewed, and what you consider to be a standard practice when it has not been provided in written instructions; and the only timeframe emphasized in the PMAP is to complete a dispute case within the goal of 6 months. I believe you're purposely attempting to overwhelm me with retaliatory actions in effort to push me out and pursue a constructive discharge of my employment.

Consequently, I believe your actions amount to unlawful discrimination and retaliation as described above. As we were not able to reach a resolution on this matter, please consider this email a notice

that I intend to pursue a claim on the matter through, at the minimum, the EEO complaint process and any other applicable legal processes that may become available to me in the future.

Your time and attention to this matter is greatly appreciated. I hope you have a wonderful weekend.

Respectfully,

Claudia Rausch
Management Analyst
Policy and Disputes Branch
National Practitioner Data Bank
HHS | HRSA | Bureau of Health Workforce (BHW)
): 301-945-3059 | 3: crausch@hrsa.gov

BE INNOVATIVE. HAVE ACCOUNTABILITY. WORK COLLABORATIVELY.

From: [Nganga-Good, Carolyn \(HRSA\)](#)
To: [Rausch, Claudia \(HRSA\)](#)
Subject: Laptop
Date: Wednesday, September 21, 2022 4:27:26 PM
Importance: High

Claudia,

I have been notified that you still have not returned your old HRSA laptop to OIT. You are expected to return the laptop on your next day in the office scheduled for September 23, 2022. In the event that you are on leave on September 23rd, you are expected to return the old HRSA laptop no later than close of business on your next work day.

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
Chief, Policy and Disputes Branch
Division of Practitioner Data Bank
Bureau of Health Workforce
Health Resources and Services Administration
5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-2251
Email: cnganga-good@hrsa.gov
[HRSA/National Practitioner Data Bank](#)





DEPARTMENT OF HEALTH & HUMAN SERVICES
Health Resources and Services Administration

Bureau of Health Workforce
5600 Fishers Lane
Rockville, MD 20857

Memorandum

Delivery Method: Electronic Mail

AT YOUR OWN OPTION, YOU MAY FURNISH THIS NOTICE TO NTEU

Date: September 21, 2022

To: Claudia Rausch
Management Analyst

Subject: Notice of Leave Restriction
Notice of Telework and Alternate Work Schedule Suspension

From: Carolyn Nganga-Good
Chief, Policy and Disputes Branch
Division of Practitioner Data Bank
Bureau of Health Workforce

This memorandum serves as notice that, effective immediately, you are placed on leave restriction. You are also notified that effective immediately, that your telework and Alternate Work Schedule (AWS) participation is terminated.

Your frequent pattern of unscheduled absences have resulted in a negative impact for the team. Your pattern of attendance is unacceptable and I expect immediate improvement. So far, in 2022, you have used unanticipated leave with little to no notice in almost every pay period. I also have been growing more concerned with the timing of your requests for leave as they often coincide with days you are required to report into the office. Failure to correct these behaviors/issues of concern or failure to make improvements may result in charges of Absence Without Leave (AWOL) or disciplinary/adverse action.

On April 19, 2022, I issued you a counseling memorandum which stated, in part, *"I am also putting you on notice regarding some of my concerns related to your attendance... I would also like to put you on notice of a concerning pattern of attendance I have observed. You frequently request unanticipated leave on dates when you have a deliverable, deadline, or 1x1 meeting with me... This pattern is concerning and I want to put you on notice that in the event I believe you may be requesting leave inappropriately, I may request acceptable documentation before I approve your leave."* Then, on May 23, 2022, I emailed you stating in part, *"I would like to provide you notice in regards to your*

attendance, leave balances, and the expectations moving forward.“ On August 23, 2022, I also sent you another email, in response to a few unanticipated leave requests, outlining your low leave balances.

You were counseled numerous times about your concerning leave pattern and your dwindling leave balances, yet there has been little to no improvement. Therefore, I find it necessary to institute a leave restriction for a 6-month period. I will notify you in writing, six (6) months from now, whether these restrictions will be canceled or continued, based on your adherence to these procedures.

LEAVE RESTRICTIONS

Your current approved tour of duty is a regular work schedule of 9:30am until 6:00pm, which includes a 30 minute lunch period.

You will stay on this leave restriction until notified in writing by me. I will notify you no later than six (6) months from the date of receipt of this memorandum whether these restrictions will be canceled or continued, based on your adherence to these procedures and demonstration of significant improvement in your attendance.

Scheduled, non-emergency leave (Sick Leave [SL] and Annual Leave [AL], and Leave Without Pay [LWOP])

- It is your responsibility to request leave and receive approval for your absences in advance, from me, before using it, and record your leave use in ITAS. In my absence you must submit your request for leave to my designee, Melissa Moore at MMoore1@hrsa.gov or (301) 945-3332 or Dave Loewenstein at dloewenstein@hrsa.gov or (301) 443-8263.
- You must request leave approval for any non-emergency leave at least one workday (24hours from the time you report for duty) in advance of the time you wish to use the leave or it may not be approved.
- If the leave requested is to undergo scheduled medical, dental, or optical examination or treatment, whether it's AL or SL, you must provide an acceptable medical certificate that is signed and dated by your medical provider and indicates that you were undergoing examination or treatment and the dates and timeframes of that examination or treatment. You must return that certification to me immediately upon your return to duty. Failure to provide acceptable documentation upon your return to duty may result in AWOL. I will determine if the certificate is acceptable.
- I do not plan to approve LWOP except as necessary by rule or law (for instance under FMLA).

Unscheduled, emergency leave (AL, LWOP and SL)

Unscheduled or emergency leave is leave requested in the event you are unable to report for duty due to medical incapacitation or other unforeseen emergency circumstances.

- If the leave requested is for emergency or unscheduled medical reasons such as illness or incapacitation, you must provide me acceptable documentation in order for it to be approved. You may be asked to bring acceptable documentation for approval of unscheduled leave, such as for household or other personal emergencies.
- You must personally contact me via email at CNganga-good@hrsa.gov or telephone at (301) 443-2251 by 9:30 a.m. for AL or by 10:30 a.m. for SL on the day of the unscheduled or emergency absence to report your absence and request leave, and specify the kind of leave you are requesting (i.e., AL or SL).
- Calls from other persons will not be acceptable and leave will not be approved for calls from other persons-- except in the rare circumstance, when it can be verified, that you are physically incapacitated or otherwise unavailable that it is impossible for you to provide personal notification.
- If I cannot be reached, you are to personally contact my designee, Melissa Moore at MMoore1@hrsa.gov or (301) 945-3332 or Dave Loewenstein at dloewenstein@hrsa.gov or (301) 443-8263.
- In the event that neither I nor my designee can be reached, you are to personally leave a message with your request on my email or voicemail, including leaving a telephone number where you can be reached, so that I may call you as necessary.
- If you are present for duty and request to leave for an unscheduled absence for emergency purposes, you must notify me personally, or my designee in my absence, to receive leave approval before using leave. In the event that neither I nor my designee can be reached, you are to personally contact the next higher leave-approving official in your supervisory chain to request leave and have it approved before leaving work.
- If the leave requested is for unscheduled medical, dental, incapacitation or treatment, whether it's AL or SL, you must provide an acceptable medical certificate that is signed and dated by your medical provider and indicates that you were undergoing examination or treatment and the dates and timeframes of that examination or treatment. You must return that certification to me immediately upon your return to duty. Failure to provide acceptable documentation upon your return to duty may result in AWOL. I will determine if the certificate is acceptable.

- Emergency or unanticipated absences will not be approved if acceptable documentation is not received as requested and will be recorded as (AWOL) pending submission of acceptable evidence of the medical or other non-medical emergency immediately upon your return to duty.
- In order to have AWOL charges for any absence due to medical incapacitation changed to approved leave, you must furnish acceptable (to me) medical documentation from your health care provider for any absence due to incapacitation, regardless of the length of absence. Such documentation must be furnished to me immediately upon your return to duty and must include a statement from your health care provider specifying that because of your medical condition, you were precluded from traveling to and from work, being at work, and/or performing the tasks and duties of your job, or were required, for good medical reason, to undergo medical evaluation or treatment that could not have been scheduled at another time so that you could have requested leave in advance. I will determine if the documentation is acceptable.

AWOL

In the event that you do not comply with the above attendance requirements and leave restrictions, your absences may also be recorded as AWOL. AWOL is not a disciplinary action. However, charges of AWOL and/or failure to comply with the attendance requirements and leave restrictions may form the basis for disciplinary/adverse action, up to and including removal from your position and from the Federal service.

AWS SUSPENSION

Effective immediately and continuing for six months from the date of your receipt of this memorandum you are not permitted to participate in the AWS program and *are placed on a fixed schedule*.

Specifically:

- You must report for work following HRSA's normal business hours of 9:30am through 6:00 pm, Monday through Friday.
- You are not permitted to work a flexible schedule.
- You are not permitted to work a compressed schedule.
- You are not permitted to work/earn credit hours. However, you will be permitted to request to use any previously earned credit time, according to applicable rules for requesting approval to use credit time.

At the end of the six month period, I will evaluate whether you have continued to present time and attendance problems. If you have corrected the attendance problems and satisfactorily demonstrated that you will comply with the AWS requirements, I will reinstate your privileges to participate in the AWS program. If you have not corrected your attendance issues, I will extend the suspension of your AWS privileges.

TELEWORK SUSPENSION

This is notice for temporary suspension of your telework agreement effective seven (7) calendar days from receipt of this notice. As a result of being placed on leave restriction, you are no longer eligible to participate in the telework program (CBA, Article 26, Section 4.D.2). As such, beginning September 28 2022, you must report to your official duty station at 5600 Fishers Lane, during your tour of duty, unless you are on approved leave.

VOLUNTARY LEAVE TRANSFER PROGRAM

If you are interested in applying for the Voluntary Leave Transfer Program, please contact the VLTP Coordinator, at HRS AVLTP@hrsa.gov or 301-945-0035.

You may wish to contact the Employee Assistance Program (EAP). Use of EAP services is voluntary, free, and confidential. The EAP can assist you with a variety of situations. You can contact them on 1-800-222-0364. They are a consultative service that is solution-focused, offering tools and strategies, referrals, and someone to talk it through.

The EAP counselors will not share information with me unless you sign a release of information. Otherwise, the EAP counselors will only confirm that you attended a meeting with them so I can account for your attendance during work hours.

I can approve duty time for you to attend EAP sessions up to an hour for each of six sessions (per issue). Please see me if you would like to request duty time to attend an EAP appointment. If you go to EAP on your own time, you are not required to notify me.

Receipt Acknowledgment

To acknowledge that you have received this notice, please sign and date in the space below. Your signature does not mean that you agree or disagree with this notice and, by signing you will not forfeit any rights to which you are entitled. Your failure to sign will not void the contents of this memorandum.

I acknowledge receipt of this memorandum

Employee refused to sign
Claudia Rausch

Date

From: [Nganga-Good, Carolyn \(HRSA\)](#)
To: [Rausch, Claudia \(HRSA\)](#)
Cc: [Toledo, Oscar \(HRSA\)](#); [Lee, Kelli \(HRSA\)](#)
Subject: RE: Official Time Request
Date: Wednesday, September 28, 2022 6:01:37 PM
Attachments: [9-28-2022 Official Time Request.pdf](#)
Importance: High

Hi Claudia,

This request for official time is unreasonable and therefore denied.

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
Chief, Policy and Disputes Branch
Division of Practitioner Data Bank
Bureau of Health Workforce
Health Resources and Services Administration
5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-2251
Email: cnganga-good@hrsa.gov
HRSA/National Practitioner Data Bank

-----Original Message-----

From: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Sent: Wednesday, September 28, 2022 3:37 PM
To: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>
Cc: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Subject: Official Time Request
Importance: High

Hi Carolyn,

Please see my official time request attached.

Thanks,

Claudia Rausch
Management Analyst
Policy and Disputes Branch
National Practitioner Data Bank
HHS | HRSA | Bureau of Health Workforce (BHW)
) : 301-945-3059 | 3: crausch@hrsa.gov

BE INNOVATIVE. HAVE ACCOUNTABILITY. WORK COLLABORATIVELY.

From: [Nganga-Good, Carolyn \(HRSA\)](#)
To: [Gaskill, Sheena \(HRSA\)](#)
Cc: [Rausch, Claudia \(HRSA\)](#)
Subject: Telework
Date: Wednesday, September 28, 2022 2:01:09 PM

Hi Sheena,

Please remove telework on ITAS for Claudia Rausch from September 28, 2022 to March 27, 2022. If the status changes before that end date, I will let you know.

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
Chief, Policy and Disputes Branch
Division of Practitioner Data Bank
Bureau of Health Workforce
Health Resources and Services Administration
5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-2251
Email: cnganga-good@hrsa.gov
[HRSA/National Practitioner Data Bank](#)



From: [Rausch, Claudia \(HRSA\)](#)
To: [Nganga-Good, Carolyn \(HRSA\)](#)
Cc: [Moore, Melissa \(HRSA\)](#); [Loewenstein, David \(HRSA\)](#); [Padilla, Luis \(HRSA\)](#); [Johnson, Carole \(HRSA\)](#); [Ganey, Catherine \(HRSA\)](#); [Lee, Kelli \(HRSA\)](#); [Archeval, Anthony \(HRSA\)](#)
Bcc: claudiamarauschi@hotmail.com; [Rausch, Claudia \(HRSA\)](#)
Subject: RE: Leave Restriction
Date: Tuesday, October 4, 2022 10:50:00 AM
Attachments: [10-4-2022 Reply to 9-21-2022 Leave AWS & Telework Notices SIGNED.pdf](#)
Importance: High

Hi Carolyn,

I have a few questions regarding your September 21, 2022 Notice of Leave Restriction and Notice of Telework and Alternative Work Schedule Suspension; and would like some clarification. My questions and concerns are attached.

For your convenience, I have also copied my reply into the body of this email:

I am seeking clarification and have a few questions about your September 21, 2022 Notice of Leave Restriction and Notice of Telework and Alternate Work Schedule Suspension ("September 21, 2022 Notice" or "Notice"), now that I have had time to read it. Can you please provide clarification? Or can you point me to the appropriate person within The Health Resources and Services Administration ("HRSA" or "Agency") that can? I would greatly appreciate it. For convenience, my questions appear in **bold underline** print throughout this document.

My first questions are:

What laws, rules and regulations support the decision to suspend me from the telework agreement and Alternative Work Schedule ("AWS")? Can you please tell me? Your Notice did not cite any. Equally, **what laws, rules, regulations or Agency policies authorize or allow a federal supervisor to suspend an employee's telework agreement and alternative work schedule?**

-

More so, considering the surrounding circumstances in my particular situation, such as my previous and current protected activity? Specifically, my protected-EEO activity, whistleblowing activity, reasonable accommodation ("RA") needs and prior RA requests, and the harassment I've experienced near the Agency building, such as radiation attacks, that caused me to fear for my life – all which you're aware of. **Or have I mistakenly failed to inform you of any of these surrounding circumstances?** Because the numerous emails between us, in addition to your August 27, 2021 testimony from my EEOC Hearing very clearly evidence that you and the Agency are aware of all of these surrounding circumstances. **Am I mistaken?**

I am not aware of any laws, regulations or policies that support or authorize the decisions in your September 21, 2022 Notice, nor its threats of recording absences as "AWOL" and "disciplinary/adverse action, up to and including removal from [my] position and from the Federal service" for failure to comply. **Or is your September 21, 2022 Notice exempt from the requirement of adhering to federal laws and regulations that govern the supervision and management of Federal Service under Title Five of the United States Code?**

-

As I understand applicable law, pursuant to [5 USC §2302\(a\)\(2\)\(A\)](#) and applicable case law, your September 21, 2022 Notice and “leave and AWS restrictions”, as well as the recent decision to suspend me, meet the legal definition of personnel action(s). Subsequently, these actions amount to several prohibited personnel practices (“PPP”) in violation of [5 USC §2302\(b\)\(8\)](#) and [5 USC §2302\(b\)\(9\)\(A\)\(i\), \(b\)\(9\)\(B\), \(B\)\(9\)\(C\), and \(B\)\(9\)\(D\)](#); which forbid reprisal in the form of personnel actions in response to the surrounding circumstances I’ve referenced above, further evidenced by our prior emails and your August 27, 2021 EEOC Hearing testimony. See *Arauz v. DOJ*, 89 MSPR 529 (2001). This includes the September 21, 2022 Notice threats of AWOL and disciplinary/adverse actions. See *Gergick v. GSA*, 43 MSPR 651, 656-57 (1990) and *Schnell v. Dept. of Army*, 114 MSPR 83, 2010 MSPB 67 (2010). Your September 21, 2022 Notice also appears to be strategically provided to me alongside your increased scrutiny of my deadlines, and during the Agency’s EEO investigation into my current EEO complaint, in which you are one of the primary “responsible management officials”. This further leads me to believe your September 21, 2022 Notice is intended to interfere with my ability to adequately respond to the EEO investigation; thus amounting to actionable retaliation.

-
Or are you and the Agency exempt from the Merits Systems Principles that routinely govern the Federal Service? Are you and HRSA exempt from the authority of the Office of Special Counsel (“OSC”) and the Merits Systems Protection Board (“MSPB”)? Please let me know if you believe I am misinterpreting these laws and they are not applicable to you and HRSA.

-
Even absent the Merits System Principles, many other federal laws, regulations, and policies contradict your September 21, 2022 Notice and Leave/AWS restriction; indicating it is unlawful, not legally binding and unenforceable. However, **please let me know if you believe I am misinterpreting any of the following laws and regulations further explained below.** As of now, I understand your September 21, 2022 Notice to be at the minimum - unlawful, done in retaliation and in violation of whistleblower protection laws, EEOC laws and the Rehabilitation Act. Your September 21, 2022 Notice also appears intended to expose me to irreparable harm, which I understand to not be legally enforceable. I will not risk exposing myself to potential danger or irreparable harm. I don’t believe federal law requires federal employees to follow orders that will result in potential danger or irreparable harm to themselves. However, please feel free to educate me. Because your September 21, 2022 Notice did not cite any laws, regulations or specify supportive facts.

Absent clarification from you, I understand the September 21, 2022 Notice and Leave/AWS/Telework restrictions to be unlawful, not legally enforceable, contradicted by applicable federal law, thus, null and void. However, I look forward to any clarification you can provide and any answers you are able to provide to my questions above and below.

As a matter of course, please note that in effort to meet my responsibility to escalate concerns of unlawful retaliation to supervisors in my chain of command and exhaust any remedies provided by the Agency - I have carbon copied additional Agency personnel to include my 2nd, 3rd, 4th, and 5th level supervisors. This email by me, should be considered by all, a report of retaliation and violation of EEO Laws and the NO FEAR ACT.

For our records, my questions, concerns, and request for clarification is further explained and

addressed below:

I. RESTRICTION OF LEAVE, AWS AND TELEWORK IS CONTRADICTED BY APPLICABLE FEDERAL LAW AND REGULATIONS

a. Title Five of the United States Code

Your September 21, 2022 Notice makes brief reference to the Collective Bargaining Agreement (“CBA”), Article 26, Section 4.D.2. However, federal law requires that the management of the attendance and leave of the federal service, to include work schedule flexibilities such as “telework” and “alternative work schedule [“AWS”]”, **adhere to federal law in addition to** the terms of a collective bargaining agreement. See [Title 5 of the United States Code \(U.S.C.\), PART III, Subpart E on Attendance and Leave, CHAPTER 61, SUBCHAPTER II Regarding Flexible and Compressed Work Schedules](#), “...any flexible or compressed work schedule, and the establishment and termination of any such schedule, shall be subject to the provisions of this subchapter **and** the terms of a collective bargaining agreement...”. See [5 U.S.C. §6130\(a\)\(1\)](#). The subchapter references several Executive Directives, Orders and rules that clarify such “schedule flexibilities” include both “alternative work schedules” and “telework”. See [Memorandum of President of the United States, June 23, 2014, 79 F.R. 36625 on “Enhancing Workplace Flexibilities and Work-Life Programs”](#).

Am I misinterpreting this law? Does this federal law and Presidential Directive not apply to HRSA?

-

b. OPM, EEOC, and MSPB Regulations and Directives

Pursuant to [5 U.S.C. §1101\(a\)](#), Federal Agencies must adhere to “all executive orders, rules, and regulations affecting the Federal service” unless “modified, terminated, superseded, or repealed by the President, the Office of Personnel Management [“OPM”], the Merit Systems Protection Board [“MSPB”], the Equal Employment Opportunity Commission [“EEOC”], or the Federal Labor Relations Authority [“FLRA”]...”.

Is HRSA exempt from following rules and regulations established by OPM, the MSPB and the EEOC? Please let me know.

-

II. AGENCY IS AWARE THAT LEAVE, TELEWORK AND AWS RESTRICTION(S) WOULD EXPOSE ME TO POTENTIAL DANGER AND IRREPARABLE HARM

a. Factual Background

You and the Agency, became acutely aware that I have felt a need to avoid being near the Agency building in effort to ensure my safety and potential harm to my life. This is evidenced through my April 25, 2022 emailed reply to your April 19, 2022 Memorandum and my June 1, 2022 emailed reply to your May 23, 2022 attempt to remove evidence on my laptop from my possession. I further explained these matters in my August 22-24, 2022 reply (**Also labeled August 22, 2022 Reply and attachments...**) to your July 20, 2022 proposal to suspend me. **Attached**. My explanation included photos that evidenced I was being attacked by toxic radiation levels in a location that is only 6 minutes away from the Agency building. You even included the photos in your July 20, 2022 proposal to suspend me and responded to my August 22-24, 2022 reply by suggesting I update my AWS location on my telework agreement.

Am I mistaken? Did you believe that my June 1, 2022 emailed statement of “I do not currently have the luxury of dropping into the HRSA building at a moment's notice without extensive planning and foresight, and without risk to my life” failed to clarify that I feel a need to avoid being near the Agency building to ensure my safety?

- Whether or not my beliefs of risk to my safety near the Agency building are credible or provable, your September 21, 2022 Leave and AWS restrictions came only three and a half months afterwards, thus strongly evidence retaliatory intent. At least, as I currently understand applicable MSPB and EEOC guidance and case law.

- **Or do MSPB and EEOC decisions and directives governing reprisal not apply to you and HRSA? See my April 25, 2022 reply to your April 19, 2022 Notice and June 1, 2022 reply to May 23, 2022 email attached.**

As I understand [Presidential Directive under the Memorandum of President of the United States, June 23, 2014, 79 F.R. 36625](#) on “Enhancing Workplace Flexibilities and Work-Life Programs”, “leave policies... related to stalking situations” is one of the “workplace flexibilities” that federal agencies must “ensure... are available to the maximum extent practicable, in accordance with the laws and regulations...”. See [Section 2 \(l\) of June 23, 2014, 79 F.R. 36625 in 5 U.S.C., Part III](#). **Does this Presidential Directive not apply to me, HRSA and HHS?** Because your September 21, 2022 restriction of leave, AWS and telework not only appears to be retaliatory, but also appears intended to place me in danger and in a frightful situation.

III. LEAVE AND AWS RESTRICTION VIOLATES THE REHABILITATION ACT AND EEOC DIRECTIVES

a. Factual Background

The Agency and you are aware that I have had reasonable accommodation needs beginning late 2019, and/or early to midyear 2020, and that my requests for a reasonable accommodation included, but are not limited to: episodic telework, flexible work schedule and leave. The Agency and you also have record that ‘telework’ was an effective accommodation for me. Historical evidence in the matter which is further described below, establishes that my panic attack symptoms took place primarily at the Agency building and I experienced a remission of these symptoms upon being on 100% telework during the pandemic.

The Agency and you are aware that I experienced a remission of panic attack symptoms during the Agency’s 100% telework policy during the pandemic, and that I surpassed performance expectations while being on 100% telework and using 213 to 259 hours of leave a year from 2020 to 2021. The Agency’s prior attempt to discredit my qualifications for a reasonable accommodation, for the likely purpose of avoiding liability in my harassment case, by utilizing a misrepresented FOH “medical review” were unsuccessful. To date, the Agency and its legal counsel have been unable to provide a legal or factual evidence-based argument to counteract my allegations that the “medical review” was and is misrepresented, not in adherence with applicable law, regulation and industry standards.

To recap the factual events:

1. On or around December 2019, I began experiencing panic attacks. They occurred at the Agency building and on a plane. **See pages 197-198 of August 22-24, 2022 Reply to proposed suspension PDF and ROI for my last EEO complaint.**
2. On or around February 2020, I sent a reasonable accommodation ("RA") request to the Agency's RA accommodations office. **See attached August 22-24, 2022 Reply to proposed suspension.**
3. I began experiencing a remission in panic attack symptoms after being on 100% telework due to the pandemic, beginning on or around March 10, 2020. **See doctor's progress note at page 208 of August 22-24, 2022 Reply to proposed suspension PDF.**
4. On April 24, 2020, the Agency denied my RA request, arguing an unnamed FOH physician's medical review determined I didn't qualify. The "medical review" contradicted the progress notes of my psychiatrist and blamed my personality and perceptions. Its conclusions did not consider any medical evidence. It characterized my RA request as "perceived harassment". **See pages 207-209 and 172-179 of August 22-24, 2022 Reply to proposed suspension PDF.**
5. The Agency's denial of the RA did not consider evidence of my performance abilities nor the fact that telework had proven to be an effective accommodation. **See 2019 and 2020 PMAP ratings at pages 19-62 of August 22-24, 2022 Reply to proposal suspension PDF and number 4 above.**
6. An expanded misrepresented "medical review" was introduced during the administrative discovery process. **See pages 204-206 and 172-179 of August 22-24, 2022 Reply to proposed suspension PDF.**
7. The responsible physician, FOH, and Agency FOIA office were unable to furnish any medical records upon request. **See attachment titles "2-24-2021 email..." hyperlinked on page 181 of August 22-24, 2022 Reply to proposed suspension PDF.**
8. Upon challenging its legitimacy, the Agency withdrew the physician as a witness for the August 2021 EEOC Hearing. **See attached July 14, 2021 AJ's Memorandum and pages 172-179 of August 22-24, 2022 Reply to proposed suspension PDF.**
9. The Agency's RA Accessibility Specialist later testified that panic attacks are a medical condition that the Agency is required to accommodate, regardless of how they were caused. **See attached August 27, 2021 EEOC Hearing testimony of Elizabeth Pinkard-Adams.**
10. On July 20, 2020, my first-level supervisor, Carolyn Nganga-Good, learned I had reasonable accommodation needs that had previously been wrongly denied. **See attached July 20, 2020 email titled "7-20-2020 Midyear PMAP Discussion..." between Claudia Rausch and Carolyn Nganga-Good.**
11. The same day, Ms. Nganga-Good agreed in writing to *"accommodate and be flexible with any accommodation requests that are within reason as long as work deliverables are not negatively impacted"*. **See attached July 20, 2020 email titled "7-20-2020 Midyear PMAP Discussion..." between Claudia Rausch and Carolyn Nganga-Good.**
12. Ms. Nganga-Good later became aware the reasonable accommodation needs were partially due to panic attacks, PTSD symptoms and medication side effects on October 28, 2020 and December 26, 2020. **See highlights on attached December 26, 2020 email titled "12-26-2020 email to CNG re: dispute cases" between Claudia Rausch and Carolyn Nganga-Good.**
13. On April 27, 2021 and August 24, 2022, Ms. Nganga-Good became aware that the reasonable accommodations I was in need of, and had previously requested included RA based leave, telework, and schedule flexibilities such as late arrivals. **See April 27, 2021 email on pages 180-195 of August 22-24, 2022 reply to proposed suspension, and hyperlinked attachments on page 181 of August 22-24, 2022 reply to proposed suspension.**

14. During most of 2020 and all of 2021, the Agency was on 100% telework due to the pandemic. As my PMAP rating official, Ms. Nganga-Good rated my performance as "Achieved More Than Expected Results". See ***attached 2021 PMAP rating and 2020 PMAP on pages 19-44 of August 22-24, 2022 reply to proposed suspension.***
15. On August 27, 2021, Ms. Nganga-Good testified during the EEOC Hearing:
 - a. *"There's usually flexibility" in managing deadlines for disputes resolution cases and described the goal deadlines as "general metrics" that "sometimes --- goes beyond, you know, six months". See attached Nganga-Good testimony labeled Pg. 336 in upper right hand corner.*
 - b. She was aware of and recalls that I brought up a "medical condition" and a "reasonable accommodation request". See attached Nganga-Good testimony labeled Pg. 336 in upper right hand corner.
16. On August 24, 2022, Ms. Nganga-Good became aware that telework was an effective accommodation for my panic attack symptoms, through the reply I provided to the July 20, 2022 proposed suspension memorandum. See ***doctor's March 20, 2020 note of "remission in symptoms of panic attacks ever since she has been working from home after the coronavirus outbreak" on page 202 of PDF attached to August 24, 2022 email "8-22-2022 Reply and attachments SIGNED".***

b. Rehabilitation Act and Applicable EEOC Law and Regulations

As I understand the Equal Employment Opportunity Commission ("EEOC")'s Directives, subjecting an employee with RA needs to different leave procedures, violates the ADA and Rehabilitation Act. See EEOC Enforcement Guidance on Employer-Provided Leave and the Americans with Disabilities Act, OLC Control No. EEOC-NVTA-2016-1. Additionally, the EEOC requires an employer to consider providing unpaid leave so long as it does not create undue hardship for the employer. This applies even when an employee is not "eligible for leave" under employer leave policies or when an employee has exhausted leave benefits. According to the EEOC, an employer cannot legally enforce maximum leave policies or limitations on unplanned absences, on an employee who needs to use RA based leave - unless the employer can prove it would result in undue hardship.

Or does the referenced EEOC Guidance above, on Employer-Provided Leave and the Americans with Disabilities Act not apply to HRSA and your September 21, 2022 Notice?

The EEOC also requires employers who offer telework to allow employees with a disability an equal opportunity to use telework as well as waive eligibility requirements for telework to accommodate disabilities. See EEOC Guidance on Work at Home/Telework as a Reasonable Accommodation, OLC Control No: EEOC-NVTA-2003-1. According to the EEOC, "An employer may not withdraw a telework agreement or modified schedule" that is used as a reasonable accommodation because of unsatisfactory performance. I have in fact been using telework and my AWS as a reasonable accommodation. As I understand EEOC Enforcement Guidance, the Agency's prior decisions on my RA requests have no bearing on the fact that I have used these workplace flexibilities as a reasonable accommodation and that I am entitled to use reasonable accommodations under the Rehabilitation Act. Per the EEOC, an employer who failed to grant a reasonable accommodation that did not constitute undue hardship, may not discipline an employee who has performance issues that resulted from the lack of an accommodation. See the EEOC's September 3, 2008 Guidance on Applying Performance and Conduct Standards to Employees with

Disabilities. This year, you have attempted to reduce all workplace flexibilities that I've used as reasonable accommodations. Accordingly, I don't see how any alleged performance issues this year, if any, are not related to either reprisal or an unlawful removal of a reasonable accommodation I'm entitled to use under federal law.

Or does the EEOC's position referenced above on applying performance and conduct standards to employees with disabilities, not apply to HRSA?

-

In your September 21, 2022 Notice, you make reference to previously issued memorandums by you dated April 19, 2022 and May 23, 2022, where you assert that *"In the event [you] believe [I] may be requesting leave inappropriately, [you] may request acceptable documentation before [you] approve leave"*. However, you have not once insisted on receiving additional documentation before approving leave after your April 19, 2022 and May 23, 2022 notices. This indicated to me that the documentation you have which is summarized in the factual background above, concerning my reasonable accommodation needs is sufficient. Furthermore, I don't believe EEOC's Enforcement Guidance even allows an employer to request additional medical documentation, after they have already been provided with initial documentation in support of a reasonable accommodation. But please, feel free to correct me if I'm wrong.

In conclusion, I'm inclined to believe that your September 21, 2022 Notice is a deliberate attempt to retaliate by interfering with my rights to a reasonable accommodation under the Rehabilitation Act. Your September 21, 2022 Notice also asserts that you do not plan to approve Leave Without Pay ("LWOP") except as necessary by rule of law. However, the Agency's reasonable accommodation accessibility specialist testified during the August 27, 2021 EEOC Hearing that the Agency approves LWOP all the time for employees who have little to no leave and need reasonable accommodations. ***See Ms. Pinkard-Adams' testimony attached.*** Subsequently, I believe this further evidences the retaliatory intent of your September 21, 2022 Notice.

IV. ABSENT RETALIATION, LEAVE RESTRICTIONS AND SUSPENSIONS OF AWS/TELEWORK STILL LACKS LEGAL AUTHORITY.

PER FEDERAL LAW, EXCLUSION OF SCHEDULE FLEXIBILITIES MUST BE DUE TO DISRUPTION OF AGENCY FUNCTIONS OR ADVERSE AGENCY IMPACT

As I understand applicable law, even if the above facts and laws do not deem the September 21, 2022 Notice to constitute unlawful retaliation, the Notice's restrictions still remain unsupported by laws governing the federal service.

According to federal law pursuant to Title Five of the United States Code, an Agency may only (1) *"restrict the employees' choice of arrival and departure time"* and/or (3) *"exclude from such program any employee or group of employees"* if the agency is *"is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation."* See [5 U.S.C. §6122 \(b\)](#). This is also emphasized under [5 U.S.C. §6131 \(a\)\(2\)](#), which provides that the only time an Agency may determine not to continue a *"particular flexible or compressed schedule"* is if and when the *"head of the agency"* finds that such a schedule would have *"adverse agency impact"* such as (b) (1) *"a reduction of the productivity of the agency; (2) a diminished level of services furnished to the public by the agency; or (3) an increase in the cost of agency operations."* See [5 U.S.C. §6131 a –b](#).

Do these federal laws not apply to HRSA and your September 21, 2022 Notice? Because nowhere in your notice, did you reference or specify ways that my leave usage has disrupted the Agency's functions, resulted in increased costs or an adverse agency impact. The Notice briefly asserted that my *"frequent pattern of unscheduled absences have resulted in a negative impact for the team"* but did not specify any incidents in which the team was affected or how the team was negatively affected. **Can you please clarify and specify when and how the team has been negatively impacted by my absences? And how it amounted to substantial disruption on Agency functions and an adverse agency impact? What factual evidence supports these allegations? Does HRSA not have to support its personnel actions with factual evidence?**

V. PER FEDERAL REGULATIONS, LIMITATIONS ON SICK LEAVE USAGE ONLY APPLY TO FAMILY CARE AND BEREAVEMENT

Your September 21, 2022 Notice attempts to use "low leave balances" to justify a leave restriction. However, these are no applicable laws, regulation, or policies that require federal employees to maintain a minimum leave balance. **Are there?** OPM federal regulations under [5 C.F.R. § 630.401 b-d](#) only place limitations on the maximum amount of hours of sick leave that can be used annually, on matters related to providing care for a family member or planning funeral arrangements. _

Do OPM regulation not apply to HRSA?

VI. JUSTIFICATION OF EXCESSIVE LEAVE USAGE AND POTENTIAL IMPACT TO AGENCY IS UNSUPPORTED BY FACTS AND HISTORICAL DATA

Your September 21, 2022 notice attempts to support nonfactual allegations and assert that *"...in 2022, [I] have used unanticipated leave with little to no notice in almost every pay period"*. However, my leave usage pattern is no different or poorer than prior years, all which resulted in "Achieved More Than Expected Results". ITAS records evidence that I have only used unanticipated leave in 10 out of 20 pay periods in year 2022. ***See attached ITAS Administrative Leave records for Years 2015-2022.*** In fact, I used more unanticipated leave during the first 8 months of last year (98.25 sick leave hours by August 28, 2021), than I have this year (87.25 SL hours by Sept. 10, 2022), and I still surpassed performance expectations in the year 2021. ***See attached ITAS Administrative Leave Record for Year 2021 and 2021 PMAP End of Year Appraisal Score of 3.80, Level 4 of "Achieved More Than Expected Results"***. As my 2021 supervisor and rating official, you even rated me at a Level 4 for Critical Element II, BHW Collaboration which pertains to "teamwork". You gave me this rating in 2021 all while I was on 100% telework and used more unanticipated leave in 2021 than this year in 2022.

In fact, ITAS and PMAP records for all prior years, 2015 to 2021, evidence that I've routinely used an equal amount of unanticipated leave each year at HRSA, sometimes more, while still surpassing performance expectations each year. ***See attached 2021 PMAP rating and PMAP ratings for years 2016-2020 at pages 19-107 of August 22-24, 2022 Reply to proposed suspension.*** Accordingly, I don't understand how one could reasonably conclude that my unanticipated absences this year would negatively impact the team, disrupt Agency functions, or have an adverse impact on the Agency. **Can you please tell me? Can you please tell me what has changed from last year to this**

year? Because the only thing I'm aware of, that has changed in our employee-supervisor relationship from last year to this year is that I now have a new EEO complaint pending against you and the Agency, with 35 plus claims on it, nine which identify you as the responsible management official. That and my whistleblowing activity of fraud, electronic surveillance and interference with my previous EEO activity; all which you've been made aware of through previous emails as cited above.

Or am I mistaken? Has something else changed in our employee-supervisor relationship from last year to this year? That has enticed you to take so many personnel actions against me?

VII. THERE ARE NO LAWS, REGULATION, OR POLICIES THAT FORBID THE USE OF LEAVE ON SCHEDULED IN-OFFICE DAYS. NOR WERE ANY SUCH REQUIREMENTS COMMUNICATED

Your September 21, 2022 Notice goes on to assert that you are concerned with the timing of my leave requests as they often coincide with days I'm required to report into the office. As explained above, I have used leave as a reasonable accommodation and to avoid potential danger and irreparable harm. There are no laws, regulations, rules, Agency policies, Division policies, or requirements that say we cannot request leave on a scheduled in-office day. **Are there? And if so, why was this not communicated at the start of establishing our telework agreements?** In fact, you approved my in-office days of the first Monday of the pay period and the last Friday of the pay period – days in which hardly anyone is in the office. These are also days that Federal Holidays routinely land on. **If this was an issue, why weren't employees kept from requesting Monday as an in-office day, when federal holidays routinely land on Mondays?** Accordingly, I don't understand how absences on these days negatively impacts any Agency operations or "team" activity, since hardly anyone is in on these days.

I look forward to any clarification you can provide.

Your time and attention to this matter is greatly appreciated.

Respectfully,

Claudia Rausch
Management Analyst
Policy and Disputes Branch
[National Practitioner Data Bank](#)
HHS | HRSA | Bureau of Health Workforce (BHW)
☎: 301-945-3059 | ✉: clausch@hrsa.gov

BE INNOVATIVE. HAVE ACCOUNTABILITY. WORK COLLABORATIVELY.

From: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>
Sent: Wednesday, September 21, 2022 4:23 PM
To: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Subject: RE: Leave Restriction

Importance: High

Claudia,

I did not receive your acknowledgment by the deadline as well as the extended time of 4PM. Here is the finalized Memo. This leave restriction goes into effect today. Therefore, beginning September 28 2022, you must report to your official duty station at 5600 Fishers Lane, during your tour of duty, unless you are on approved leave.

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
Chief, Policy and Disputes Branch
Division of Practitioner Data Bank
Bureau of Health Workforce
Health Resources and Services Administration
5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-2251
Email: cnganga-good@hrsa.gov
[HRSA/National Practitioner Data Bank](#)



From: Nganga-Good, Carolyn (HRSA)
Sent: Wednesday, September 21, 2022 10:32 AM
To: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Subject: Leave Restriction

Hi Claudia,

As mentioned on September 14, 2022, during our 1:1 meeting, I am putting you on a leave restriction. Attached is the Memo detailing the restriction and expectations. Please sign it **no later than 3 PM today, September 21, 2022** acknowledging receipt. If I do not get the acknowledgment by 3 PM today, I will document that "employee refused to sign" and file the memo. Please note that your signature does not mean that you agree or disagree with this notice and, by signing you will not forfeit any rights to which you are entitled. Your failure to sign will not void the contents of this memorandum.

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
Chief, Policy and Disputes Branch
Division of Practitioner Data Bank
Bureau of Health Workforce
Health Resources and Services Administration
5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-2251
Email: cnganga-good@hrsa.gov
[HRSA/National Practitioner Data Bank](#)



From: [Rausch, Claudia \(HRSA\)](#)
To: [Nganga-Good, Carolyn \(HRSA\)](#); CRausch@hrsa.gov
Cc: [Moore, Melissa \(HRSA\)](#); [Loewenstein, David \(HRSA\)](#); [Ganey, Catherine \(HRSA\)](#); [Johnson, Carole \(HRSA\)](#); [Grossman, Jordan \(HRSA\)](#); [Espinosa, Diana \(HRSA\)](#); [Kadingo, Wendy \(HRSA\)](#); [Ali, Shontae \(HRSA\)](#); [Colbert, Dale \(HRSA\)](#); [Lee, Kelli \(HRSA\)](#); [Archeval, Anthony \(HRSA\)](#); [Pradia-Williams, Sheila \(HRSA\)](#); [Pradia-Williams, Sheila \(HRSA\)](#); [Gaskill, Sheena \(HRSA\)](#); [Padilla, Luis \(HRSA\)](#)
Bcc: claudiamarausch@hotmail.com; [Rausch, Claudia \(HRSA\)](#)
Subject: RE: Work Status
Date: Wednesday, October 5, 2022 8:54:00 AM
Attachments: [10-5-2022 Reply and Follow-up Notice.pdf](#)
Importance: High

Hi Carolyn,

My reply to you is attached. For your convenience, it's also copied into the body of this email:

Hi Carolyn,

In reply to your October 4, 2022 email, I did report for duty and worked on Wednesday September 28th, Friday September 30th, Monday October 3rd and Tues October 4th.

As explained in my October 4, 2022 emailed reply to the instructions from your September 21, 2022 Notice, I do not understand your instructions and requested clarification. Can you please answer my October 4, 2022 questions and provide me with the clarification I am seeking?

To recap, my approved leave usage from this year, is the basis for your September 21, 2022 decision to restrict my leave usage and suspend me from participating in the Agency-wide Alternative Work Schedule and Telework programs. As you are aware through our prior communications, a lot of the leave I've used has been to accommodate my reasonable accommodation ("RA") needs; and/or avoid a hostile work environment and retaliatory harassment. If the Agency would've approved my prior RA request of episodic telework and/or 100% telework which proved to be an effective accommodation, I wouldn't have needed to use leave on days I'm scheduled to go to the Agency building.

You were willing to accommodate my reasonable accommodation needs before. I don't understand why that has changed suddenly and why you have decided to eliminate all the aforementioned work schedule flexibilities that I have used as reasonable accommodations. Nor have you been willing to engage in the interactive process required under the Rehabilitation Act. Accordingly, please advise what I need to do to obtain a reasonable accommodation of 100% telework from the Agency, and/or RA based leave. Please also advise what resolution, assistance or remediation is available to me from the Agency. Also, please advise if the Agency is able to provide any support for my reasonable accommodation needs and the retaliatory harassment I continue to experience.

Notably, your September 22, 2022 restrictions and suspension of leave use, AWS, and telework comes after I made you aware that I feared being near the Agency building due to retaliatory harassment to include, but not limited to, radiation attacks. At the minimum, it is clear that this management decision is intended to further create even more intolerable working conditions for me; forcing me to exhaust my leave.

Your September 22, 2022 notice and related decisions are clearly based on leave usage that has resulted from the Agency's wrongful actions, and thus, give me no meaningful choice in the matter. This more than suggests that your September 22, 2022 threat of disciplinary action and/or removal from the federal service for failure to comply with the unfair and unlawful restrictions and suspension of leave use, AWS, and telework; is intended to support a constructive removal and/or constructive disciplinary action against me. Based on the facts and evidence I have reviewed, it is clear that my protected activity, to include but not limited to, my EEO-activity and whistleblowing activity, are at the minimum – motivating factors in these personnel actions. Subsequently, amounting to Prohibited Personnel Practices in violation of the Merits Systems Principles pursuant to Title Five of the United States Code.

Considering this alongside other factors, to include the fact that you seem unwilling or unable to respond to my October 4, 2022 questions and request for clarification, **please take notice** of the following:

As previous attempts to reach resolution and communicate these concerns to you and management officials in my chain of command have been unsuccessful, **please take notice that I will pursue legal action against you and all accountable parties to the fullest extent allowed by law.**

This is based on facts and evidence I have reviewed, which lead me to reasonably believe that **your instructions and September 22, 2022 restrictions and suspension of leave use, AWS, and telework are unlawful. I believe these actions by you are intended to discriminate, deter protected EEO-activity and retaliate against protected activity in violation of EEOC Regulations and Whistleblower Protection laws.** Please also take notice that I believe your actions are part of a pattern of retaliatory harassment and amount to unlawful discrimination me. I believe I'm being treated differently by you and the Agency because I'm a Hispanic, Mexican-American Female. I also believe I'm being discriminated against by you and the Agency because I have a disability (perceived or otherwise).

Any perceived resistance from me in response to the unlawful instructions referenced in above, is at most, an attempt by me to oppose unlawful retaliatory actions by you and the Agency or protect myself from danger and irreparable harm; and not an attempt of misconduct.

-
For our records, this email by me is attempt to exercise my rights to protected opposition pursuant to 29 CFR Part 1614 and the NO FEAR ACT, and other applicable laws. In effort to exhaust my responsibility to gain resolution through any processes that may be available by the Agency, **I have carbon copied additional Agency management officials in attempt to escalate my concerns of retaliation and/or provide formal legal notice of my intent to take legal action against any accountable parties.**

Your time and attention to this matter is greatly appreciated.

Respectfully,

Claudia Rausch

Claudia Rausch

Management Analyst

Policy and Disputes Branch

[National Practitioner Data Bank](#)

HHS | HRSA | Bureau of Health Workforce (**BHW**)

☎: 301-945-3059 | ✉: crausch@hrsa.gov

BE INNOVATIVE. HAVE ACCOUNTABILITY. WORK COLLABORATIVELY.

From: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>

Sent: Tuesday, October 4, 2022 2:11 PM

To: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>

Cc: Moore, Melissa (HRSA) <MMoore1@hrsa.gov>; Loewenstein, David (HRSA) <DLoewenstein@hrsa.gov>; Lee, Kelli (HRSA) <KLee@hrsa.gov>

Subject: RE: Work Status

Importance: High

Hi Claudia,

I received the attached emails from you in response to my message regarding your work status.

I instructed you to report for duty at 5600 Fishers lane to your official work station starting September 28, 2022 via the September 21, 2022 Leave Restriction Memo.

As I understand from your last emails, you did not report for duty as instructed Wednesday Sept 28th and Friday Sept 30th, nor did you report for duty as instructed Monday Oct 3rd and Tues Oct 4th. Your behavior is considered misconduct and will not be tolerated.

You must:

- Confirm whether or not you reported to duty as instructed on 9/28, 9/30, 10/3 and 10/4 **by 5pm today.**
- Immediately comply with the Leave Restriction instructions I issued you on September 21, 2022 – (attached for your review) and report to the office as instructed. You are not approved to telework.

I will address any other necessary questions/matters from your attached email as soon as I am able to.

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
Chief, Policy and Disputes Branch
Division of Practitioner Data Bank
Bureau of Health Workforce
Health Resources and Services Administration
5600 Fishers Lane, Rockville, MD 20857
Phone: 301-443-2251
Email: cnganga-good@hrsa.gov
[HRSA/National Practitioner Data Bank](#)



From: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Sent: Tuesday, October 4, 2022 11:43 AM
To: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>
Cc: Moore, Melissa (HRSA) <MMoore1@hrsa.gov>; Loewenstein, David (HRSA) <DLoewenstein@hrsa.gov>; Padilla, Luis (HRSA) <LPadilla@hrsa.gov>; Johnson, Carole (HRSA) <Carole.Johnson@hrsa.gov>; Ganey, Catherine (HRSA) <CGaney@hrsa.gov>; Lee, Kelli (HRSA) <KLee@hrsa.gov>; Archeval, Anthony (HRSA) <AArcheval@hrsa.gov>
Subject: RE: Work Status
Importance: High

Hi Carolyn,

I apologize for the delay, I'm just now seeing this email.

I have a few questions regarding your September 21, 2022 Notice of Leave Restriction and Notice of Telework and Alternative Work Schedule Suspension; and would like some clarification. My questions and concerns are attached.

For your convenience, I have also copied my reply into the body of this email:

I am seeking clarification and have a few questions about your September 21, 2022 Notice of Leave Restriction and Notice of Telework and Alternate Work Schedule Suspension ("September 21, 2022 Notice" or "Notice"), now that I have had time to read it. Can you please provide clarification? Or can you point me to the appropriate person within The Health Resources and Services Administration ("HRSA" or "Agency") that can? I would greatly appreciate it. For convenience, my

questions appear in **bold underline** print throughout this document.

My first questions are:

What laws, rules and regulations support the decision to suspend me from the telework agreement and Alternative Work Schedule (“AWS”)? Can you please tell me? Your Notice did not cite any. Equally, **what laws, rules, regulations or Agency policies authorize or allow a federal supervisor to suspend an employee’s telework agreement and alternative work schedule?**

-
More so, considering the surrounding circumstances in my particular situation, such as my previous and current protected activity? Specifically, my protected-EEO activity, whistleblowing activity, reasonable accommodation (“RA”) needs and prior RA requests, and the harassment I’ve experienced near the Agency building, such as radiation attacks, that caused me to fear for my life – all which you’re aware of. **Or have I mistakenly failed to inform you of any of these surrounding circumstances?** Because the numerous emails between us, in addition to your August 27, 2021 testimony from my EEOC Hearing very clearly evidence that you and the Agency are aware of all of these surrounding circumstances. **Am I mistaken?**

I am not aware of any laws, regulations or polices that support or authorize the decisions in your September 21, 2022 Notice, nor its threats of recording absences as “AWOL” and “disciplinary/adverse action, up to and including removal from [my] position and from the Federal service” for failure to comply. **Or is your September 21, 2022 Notice exempt from the requirement of adhering to federal laws and regulations that govern the supervision and management of Federal Service under Title Five of the United States Code?**

-
As I understand applicable law, pursuant to [5 USC §2302\(a\)\(2\)\(A\)](#) and applicable case law, your September 21, 2022 Notice and “leave and AWS restrictions”, as well as the recent decision to suspend me, meet the legal definition of personnel action(s). Subsequently, these actions amount to several prohibited personnel practices (“PPP”) in violation of [5 USC §2302\(b\)\(8\)](#) and [5 USC §2302\(b\)\(9\)\(A\)\(i\), \(b\)\(9\)\(B\), \(B\)\(9\)\(C\), and \(B\)\(9\)\(D\)](#); which forbid reprisal in the form of personnel actions in response to the surrounding circumstances I’ve referenced above, further evidenced by our prior emails and your August 27, 2021 EEOC Hearing testimony. See *Arauz v. DOJ*, 89 MSPR 529 (2001). This includes the September 21, 2022 Notice threats of AWOL and disciplinary/adverse actions. See *Gergick v. GSA*, 43 MSPR 651, 656-57 (1990) and *Schnell v. Dept. of Army*, 114 MSPR 83, 2010 MSPB 67 (2010). Your September 21, 2022 Notice also appears to be strategically provided to me alongside your increased scrutiny of my deadlines, and during the Agency’s EEO investigation into my current EEO complaint, in which you are one of the primary “responsible management officials”. This further leads me to believe your September 21, 2022 Notice is intended to interfere with my ability to adequately respond to the EEO investigation; thus amounting to actionable retaliation.

-
Or are you and the Agency exempt from the Merits Systems Principles that routinely govern the Federal Service? Are you and HRSA exempt from the authority of the Office of Special Counsel (“OSC”) and the Merits Systems Protection Board (“MSPB”)? Please let me know if you believe I am misinterpreting these laws and they are not applicable to you and HRSA.

-

Even absent the Merits System Principles, many other federal laws, regulations, and policies contradict your September 21, 2022 Notice and Leave/AWS restriction; indicating it is unlawful, not legally binding and unenforceable. However, **please let me know if you believe I am misinterpreting any of the following laws and regulations further explained below.** As of now, I understand your September 21, 2022 Notice to be at the minimum - unlawful, done in retaliation and in violation of whistleblower protection laws, EEOC laws and the Rehabilitation Act. Your September 21, 2022 Notice also appears intended to expose me to irreparable harm, which I understand to not be legally enforceable. I will not risk exposing myself to potential danger or irreparable harm. I don't believe federal law requires federal employees to follow orders that will result in potential danger or irreparable harm to themselves. However, please feel free to educate me. Because your September 21, 2022 Notice did not cite any laws, regulations or specify supportive facts.

Absent clarification from you, I understand the September 21, 2022 Notice and Leave/AWS/Telework restrictions to be unlawful, not legally enforceable, contradicted by applicable federal law, thus, null and void. However, I look forward to any clarification you can provide and any answers you are able to provide to my questions above and below.

As a matter of course, please note that in effort to meet my responsibility to escalate concerns of unlawful retaliation to supervisors in my chain of command and exhaust any remedies provided by the Agency - I have carbon copied additional Agency personnel to include my 2nd, 3rd, 4th, and 5th level supervisors. This email by me, should be considered by all, a report of retaliation and violation of EEO Laws and the NO FEAR ACT.

For our records, my questions, concerns, and request for clarification is further explained and addressed below:

I. RESTRICTION OF LEAVE, AWS AND TELEWORK IS CONTRADICTED BY APPLICABLE FEDERAL LAW AND REGULATIONS

a. Title Five of the United States Code

Your September 21, 2022 Notice makes brief reference to the Collective Bargaining Agreement ("CBA"), Article 26, Section 4.D.2. However, federal law requires that the management of the attendance and leave of the federal service, to include work schedule flexibilities such as "telework" and "alternative work schedule ["AWS"]", ***adhere to federal law in addition to*** the terms of a collective bargaining agreement. See [Title 5 of the United States Code \(U.S.C.\), PART III, Subpart E on Attendance and Leave, CHAPTER 61, SUBCHAPTER II Regarding Flexible and Compressed Work Schedules](#), "...any flexible or compressed work schedule, and the establishment and termination of any such schedule, shall be subject to the provisions of this subchapter **and** the terms of a collective bargaining agreement...". See [5 U.S.C. §6130\(a\)\(1\)](#). The subchapter references several Executive Directives, Orders and rules that clarify such "schedule flexibilities" include both "alternative work schedules" and "telework". See [Memorandum of President of the United States, June 23, 2014, 79 F.R. 36625 on "Enhancing Workplace Flexibilities and Work-Life Programs"](#).

Am I misinterpreting this law? Does this federal law and Presidential Directive not apply to HRSA?

-

b. OPM, EEOC, and MSPB Regulations and Directives

Pursuant to [5 U.S.C. §1101\(a\)](#), Federal Agencies must adhere to “all executive orders, rules, and regulations affecting the Federal service” unless “modified, terminated, superseded, or repealed by the President, the Office of Personnel Management [“OPM”], the Merit Systems Protection Board [“MSPB”], the Equal Employment Opportunity Commission [“EEOC”], or the Federal Labor Relations Authority [“FLRA”]...”.

Is HRSA exempt from following rules and regulations established by OPM, the MSPB and the EEOC? Please let me know.

-

II. AGENCY IS AWARE THAT LEAVE, TELEWORK AND AWS RESTRICTION(S) WOULD EXPOSE ME TO POTENTIAL DANGER AND IRREPARABLE HARM

a. Factual Background

You and the Agency, became acutely aware that I have felt a need to avoid being near the Agency building in effort to ensure my safety and potential harm to my life. This is evidenced through my April 25, 2022 emailed reply to your April 19, 2022 Memorandum and my June 1, 2022 emailed reply to your May 23, 2022 attempt to remove evidence on my laptop from my possession. I further explained these matters in my August 22-24, 2022 reply **(Also labeled August 22, 2022 Reply and attachments...)** to your July 20, 2022 proposal to suspend me. **Attached**. My explanation included photos that evidenced I was being attacked by toxic radiation levels in a location that is only 6 minutes away from the Agency building. You even included the photos in your July 20, 2022 proposal to suspend me and responded to my August 22-24, 2022 reply by suggesting I update my AWS location on my telework agreement.

Am I mistaken? Did you believe that my June 1, 2022 emailed statement of “I do not currently have the luxury of dropping into the HRSA building at a moment's notice without extensive planning and foresight, and without risk to my life” failed to clarify that I feel a need to avoid being near the Agency building to ensure my safety?

-

Whether or not my beliefs of risk to my safety near the Agency building are credible or provable, your September 21, 2022 Leave and AWS restrictions came only three and a half months afterwards, thus strongly evidence retaliatory intent. At least, as I currently understand applicable MSPB and EEOC guidance and case law.

-

Or do MSPB and EEOC decisions and directives governing reprisal not apply to you and HRSA? See my April 25, 2022 reply to your April 19, 2022 Notice and June 1, 2022 reply to May 23, 2022 email attached.

As I understand [Presidential Directive under the Memorandum of President of the United States, June 23, 2014, 79 F.R. 36625](#) on “Enhancing Workplace Flexibilities and Work-Life Programs”, “leave policies... related to stalking situations” is one of the “workplace flexibilities” that federal agencies must “ensure... are available to the maximum extent practicable, in accordance with the laws and regulations...”. See [Section 2 \(I\) of June 23, 2014, 79 F.R. 36625 in 5 U.S.C., Part III](#). **Does this Presidential Directive not apply to me, HRSA and HHS?** Because your September 21, 2022

restriction of leave, AWS and telework not only appears to be retaliatory, but also appears intended to place me in danger and in a frightful situation.

III. LEAVE AND AWS RESTRICTION VIOLATES THE REHABILITATION ACT AND EEOC DIRECTIVES

a. Factual Background

The Agency and you are aware that I have had reasonable accommodation needs beginning late 2019, and/or early to midyear 2020, and that my requests for a reasonable accommodation included, but are not limited to: episodic telework, flexible work schedule and leave. The Agency and you also have record that ‘telework’ was an effective accommodation for me. Historical evidence in the matter which is further described below, establishes that my panic attack symptoms took place primarily at the Agency building and I experienced a remission of these symptoms upon being on 100% telework during the pandemic.

The Agency and you are aware that I experienced a remission of panic attack symptoms during the Agency’s 100% telework policy during the pandemic, and that I surpassed performance expectations while being on 100% telework and using 213 to 259 hours of leave a year from 2020 to 2021. The Agency’s prior attempt to discredit my qualifications for a reasonable accommodation, for the likely purpose of avoiding liability in my harassment case, by utilizing a misrepresented FOH “medical review” were unsuccessful. To date, the Agency and its legal counsel have been unable to provide a legal or factual evidence-based argument to counteract my allegations that the “medical review” was and is misrepresented, not in adherence with applicable law, regulation and industry standards.

To recap the factual events:

1. On or around December 2019, I began experiencing panic attacks. They occurred at the Agency building and on a plane. **See pages 197-198 of August 22-24, 2022 Reply to proposed suspension PDF and ROI for my last EEO complaint.**
2. On or around February 2020, I sent a reasonable accommodation (“RA”) request to the Agency’s RA accommodations office. **See attached August 22-24, 2022 Reply to proposed suspension.**
3. I began experiencing a remission in panic attack symptoms after being on 100% telework due to the pandemic, beginning on or around March 10, 2020. **See doctor’s progress note at page 208 of August 22-24, 2022 Reply to proposed suspension PDF.**
4. On April 24, 2020, the Agency denied my RA request, arguing an unnamed FOH physician’s medical review determined I didn’t qualify. The “medical review” contradicted the progress notes of my psychiatrist and blamed my personality and perceptions. Its conclusions did not consider any medical evidence. It characterized my RA request as “perceived harassment”. **See pages 207-209 and 172-179 of August 22-24, 2022 Reply to proposed suspension PDF.**
5. The Agency’s denial of the RA did not consider evidence of my performance abilities nor the fact that telework had proven to be an effective accommodation. **See 2019 and 2020 PMAP ratings at pages 19-62 of August 22-24, 2022 Reply to proposal suspension PDF and number 4 above.**
6. An expanded misrepresented “medical review” was introduced during the administrative discovery process. **See pages 204-206 and 172-179 of August 22-24, 2022 Reply to proposed suspension PDF.**
7. The responsible physician, FOH, and Agency FOIA office were unable to furnish any

medical records upon request. **See attachment titles “2-24-2021 email...” hyperlinked on page 181 of August 22-24, 2022 Reply to proposed suspension PDF.**

8. Upon challenging its legitimacy, the Agency withdrew the physician as a witness for the August 2021 EEOC Hearing. **See attached July 14, 2021 AJ’s Memorandum and pages 172-179 of August 22-24, 2022 Reply to proposed suspension PDF.**
9. The Agency’s RA Accessibility Specialist later testified that panic attacks are a medical condition that the Agency is required to accommodate, regardless of how they were caused. **See attached August 27, 2021 EEOC Hearing testimony of Elizabeth Pinkard-Adams.**
10. On July 20, 2020, my first-level supervisor, Carolyn Nganga-Good, learned I had reasonable accommodation needs that had previously been wrongly denied. **See attached July 20, 2020 email titled “7-20-2020 Midyear PMAP Discussion...” between Claudia Rausch and Carolyn Nganga-Good.**
11. The same day, Ms. Nganga-Good agreed in writing to “*accommodate and be flexible with any accommodation requests that are within reason as long as work deliverables are not negatively impacted*”. **See attached July 20, 2020 email titled “7-20-2020 Midyear PMAP Discussion...” between Claudia Rausch and Carolyn Nganga-Good.**
12. Ms. Nganga-Good later became aware the reasonable accommodation needs were partially due to panic attacks, PTSD symptoms and medication side effects on October 28, 2020 and December 26, 2020. **See highlights on attached December 26, 2020 email titled “12-26-2020 email to CNG re: dispute cases” between Claudia Rausch and Carolyn Nganga-Good.**
13. On April 27, 2021 and August 24, 2022, Ms. Nganga-Good became aware that the reasonable accommodations I was in need of, and had previously requested included RA based leave, telework, and schedule flexibilities such as late arrivals. **See April 27, 2021 email on pages 180-195 of August 22-24, 2022 reply to proposed suspension, and hyperlinked attachments on page 181 of August 22-24, 2022 reply to proposed suspension.**
14. During most of 2020 and all of 2021, the Agency was on 100% telework due to the pandemic. As my PMAP rating official, Ms. Nganga-Good rated my performance as “Achieved More Than Expected Results”. **See attached 2021 PMAP rating and 2020 PMAP on pages 19-44 of August 22-24, 2022 reply to proposed suspension.**
15. On August 27, 2021, Ms. Nganga-Good testified during the EEOC Hearing:
 - a. “*There’s usually flexibility*” in managing deadlines for disputes resolution cases and described the goal deadlines as “*general metrics*” that “*sometimes --- goes beyond, you know, six months*”. **See attached Nganga-Good testimony labeled Pg. 336 in upper right hand corner.**
 - b. She was aware of and recalls that I brought up a “*medical condition*” and a “*reasonable accommodation request*”. **See attached Nganga-Good testimony labeled Pg. 336 in upper right hand corner.**
16. On August 24, 2022, Ms. Nganga-Good became aware that telework was an effective accommodation for my panic attack symptoms, through the reply I provided to the July 20, 2022 proposed suspension memorandum. **See doctor’s March 20, 2020 note of “remission in symptoms of panic attacks ever since she has been working from home after the coronavirus outbreak” on page 202 of PDF attached to August 24, 2022 email “8-22-2022 Reply and attachments SIGNED”.**

b. Rehabilitation Act and Applicable EEOC Law and Regulations

As I understand the Equal Employment Opportunity Commission (“EEOC”)’s Directives, subjecting an employee with RA needs to different leave procedures, violates the ADA and

Rehabilitation Act. See *EEOC Enforcement Guidance on Employer-Provided Leave and the Americans with Disabilities Act*, OLC Control No. EEOC-NVTA-2016-1. Additionally, the EEOC requires an employer to consider providing unpaid leave so long as it does not create undue hardship for the employer. This applies even when an employee is not “eligible for leave” under employer leave policies or when an employee has exhausted leave benefits. According to the EEOC, an employer cannot legally enforce maximum leave policies or limitations on unplanned absences, on an employee who needs to use RA based leave - unless the employer can prove it would result in undue hardship.

Or does the referenced EEOC Guidance above, on Employer-Provided Leave and the Americans with Disabilities Act not apply to HRSA and your September 21, 2022 Notice?

The EEOC also requires employers who offer telework to allow employees with a disability an equal opportunity to use telework as well as waive eligibility requirements for telework to accommodate disabilities. See *EEOC Guidance on Work at Home/Telework as a Reasonable Accommodation*, OLC Control No: EEOC-NVTA-2003-1. According to the EEOC, “An employer may not withdraw a telework agreement or modified schedule” that is used as a reasonable accommodation because of unsatisfactory performance. I have in fact been using telework and my AWS as a reasonable accommodation. As I understand EEOC Enforcement Guidance, the Agency’s prior decisions on my RA requests have no bearing on the fact that I have used these workplace flexibilities as a reasonable accommodation and that I am entitled to use reasonable accommodations under the Rehabilitation Act. Per the EEOC, an employer who failed to grant a reasonable accommodation that did not constitute undue hardship, may not discipline an employee who has performance issues that resulted from the lack of an accommodation. See the *EEOC’s September 3, 2008 Guidance on Applying Performance and Conduct Standards to Employees with Disabilities*. This year, you have attempted to reduce all workplace flexibilities that I’ve used as reasonable accommodations. Accordingly, I don’t see how any alleged performance issues this year, if any, are not related to either reprisal or an unlawful removal of a reasonable accommodation I’m entitled to use under federal law.

Or does the EEOC’s position referenced above on applying performance and conduct standards to employees with disabilities, not apply to HRSA?

In your September 21, 2022 Notice, you make reference to previously issued memorandums by you dated April 19, 2022 and May 23, 2022, where you assert that “*In the event [you] believe [I] may be requesting leave inappropriately, [you] may request acceptable documentation before [you] approve leave*”. However, you have not once insisted on receiving additional documentation before approving leave after your April 19, 2022 and May 23, 2022 notices. This indicated to me that the documentation you have which is summarized in the factual background above, concerning my reasonable accommodation needs is sufficient. Furthermore, I don’t believe EEOC’s Enforcement Guidance even allows an employer to request additional medical documentation, after they have already been provided with initial documentation in support of a reasonable accommodation. But please, feel free to correct me if I’m wrong.

In conclusion, I’m inclined to believe that your September 21, 2022 Notice is a deliberate

attempt to retaliate by interfering with my rights to a reasonable accommodation under the Rehabilitation Act. Your September 21, 2022 Notice also asserts that you do not plan to approve Leave Without Pay (“LWOP”) except as necessary by rule of law. However, the Agency’s reasonable accommodation accessibility specialist testified during the August 27, 2021 EEOC Hearing that the Agency approves LWOP all the time for employees who have little to no leave and need reasonable accommodations. ***See Ms. Pinkard-Adams’ testimony attached.*** Subsequently, I believe this further evidences the retaliatory intent of your September 21, 2022 Notice.

**IV. ABSENT RETALIATION, LEAVE RESTRICTIONS AND SUSPENSIONS OF AWS/TELEWORK STILL LACKS LEGAL AUTHORITY.
PER FEDERAL LAW, EXCLUSION OF SCHEDULE FLEXIBILITIES MUST BE DUE TO DISRUPTION OF AGENCY FUNCTIONS OR ADVERSE AGENCY IMPACT**

As I understand applicable law, even if the above facts and laws do not deem the September 21, 2022 Notice to constitute unlawful retaliation, the Notice’s restrictions still remain unsupported by laws governing the federal service.

According to federal law pursuant to Title Five of the United States Code, an Agency may only (1) “restrict the employees’ choice of arrival and departure time” and/or (3) “exclude from such program **any employee** or group of employees” if the agency is “is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation.” See [5 U.S.C. §6122 \(b\)](#). This is also emphasized under [5 U.S.C. §6131 \(a\)\(2\)](#), which provides that the only time an Agency may determine not to continue a “particular flexible or compressed schedule” is if and when the “head of the agency” finds that such a schedule would have “adverse agency impact” such as (b) (1) “a reduction of the productivity of the agency; (2) a diminished level of services furnished to the public by the agency; or (3) an increase in the cost of agency operations.” See [5 U.S.C. §6131 a –b](#).

Do these federal laws not apply to HRSA and your September 21, 2022 Notice? Because nowhere in your notice, did you reference or specify ways that my leave usage has disrupted the Agency’s functions, resulted in increased costs or an adverse agency impact. The Notice briefly asserted that my “frequent pattern of unscheduled absences have resulted in a negative impact for the team” but did not specify any incidents in which the team was affected or how the team was negatively affected. **Can you please clarify and specify when and how the team has been negatively impacted by my absences? And how it amounted to substantial disruption on Agency functions and an adverse agency impact? What factual evidence supports these allegations? Does HRSA not have to support its personnel actions with factual evidence?**

V. PER FEDERAL REGULATIONS, LIMITATIONS ON SICK LEAVE USAGE ONLY APPLY TO FAMILY CARE AND BEREAVEMENT

Your September 21, 2022 Notice attempts to use “low leave balances” to justify a leave restriction. However, these are no applicable laws, regulation, or policies that require federal employees to maintain a minimum leave balance. **Are there?** OPM federal regulations under [5 C.F.R. § 630.401 b-d](#) only place limitations on the maximum amount of hours of sick leave that can be used annually, on matters related to providing care for a family member or planning funeral arrangements. _

Do OPM regulation not apply to HRSA?

VI. JUSTIFICATION OF EXCESSIVE LEAVE USAGE AND POTENTIAL IMPACT TO AGENCY IS UNSUPPORTED BY FACTS AND HISTORICAL DATA

Your September 21, 2022 notice attempts to support nonfactual allegations and assert that “...in 2022, [I] have used unanticipated leave with little to no notice in almost every pay period”. However, my leave usage pattern is no different or poorer than prior years, all which resulted in “Achieved More Than Expected Results”. ITAS records evidence that I have only used unanticipated leave in 10 out of 20 pay periods in year 2022. **See attached ITAS Administrative Leave records for Years 2015-2022.** In fact, I used more unanticipated leave during the first 8 months of last year (98.25 sick leave hours by August 28, 2021), than I have this year (87.25 SL hours by Sept. 10, 2022), and I still surpassed performance expectations in the year 2021. **See attached ITAS Administrative Leave Record for Year 2021 and 2021 PMAP End of Year Appraisal Score of 3.80, Level 4 of “Achieved More Than Expected Results”.** As my 2021 supervisor and rating official, you even rated me at a Level 4 for Critical Element II, BHW Collaboration which pertains to “teamwork”. You gave me this rating in 2021 all while I was on 100% telework and used more unanticipated leave in 2021 than this year in 2022.

In fact, ITAS and PMAP records for all prior years, 2015 to 2021, evidence that I’ve routinely used an equal amount of unanticipated leave each year at HRSA, sometimes more, while still surpassing performance expectations each year. **See attached 2021 PMAP rating and PMAP ratings for years 2016-2020 at pages 19-107 of August 22-24, 2022 Reply to proposed suspension.** Accordingly, I don’t understand how one could reasonably conclude that my unanticipated absences this year would negatively impact the team, disrupt Agency functions, or have an adverse impact on the Agency. **Can you please tell me? Can you please tell me what has changed from last year to this year?** Because the only thing I’m aware of, that has changed in our employee-supervisor relationship from last year to this year is that I now have a new EEO complaint pending against you and the Agency, with 35 plus claims on it, nine which identify you as the responsible management official. That and my whistleblowing activity of fraud, electronic surveillance and interference with my previous EEO activity; all which you’ve been made aware of through previous emails as cited above.

Or am I mistaken? Has something else changed in our employee-supervisor relationship from last year to this year? That has enticed you to take so many personnel actions against me?

VII. THERE ARE NO LAWS, REGULATION, OR POLICIES THAT FORBID THE USE OF LEAVE ON SCHEDULED IN-OFFICE DAYS. NOR WERE ANY SUCH REQUIREMENTS COMMUNICATED

Your September 21, 2022 Notice goes on to assert that you are concerned with the timing of my leave requests as they often coincide with days I’m required to report into the office. As explained above, I have used leave as a reasonable accommodation and to avoid potential danger and irreparable harm. There are no laws, regulations, rules, Agency policies, Division policies, or requirements that say we cannot request leave on a scheduled in-office day. **Are there? And if so, why was this not communicated at the start of establishing our telework agreements?** In fact, you approved my in-office days of the first Monday of the pay period and the last Friday of the pay period – days in which hardly anyone is in the office. These are also days that Federal Holidays

routinely land on. **If this was an issue, why weren't employees kept from requesting Monday as an in-office day, when federal holidays routinely land on Mondays?** Accordingly, I don't understand how absences on these days negatively impacts any Agency operations or "team" activity, since hardly anyone is in on these days.

I look forward to any clarification you can provide.

Your time and attention to this matter is greatly appreciated.

Respectfully,

Claudia Rausch
Management Analyst
Policy and Disputes Branch
[National Practitioner Data Bank](#)
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BE INNOVATIVE. HAVE ACCOUNTABILITY. WORK COLLABORATIVELY.

From: Nganga-Good, Carolyn (HRSA) <cnganga-good@hrsa.gov>
Sent: Monday, October 3, 2022 3:20 PM
To: Rausch, Claudia (HRSA) <CRausch@hrsa.gov>
Subject: Work Status
Importance: High

Hi Claudia,

I am following up on your work status and whereabouts as you have not been seen on site at the Parklawn Building on 9/28, 9/30, and today, 10/3 and I have not received any leave requests from you. You were instructed that you have to be onsite starting Wednesday 9/28/2022 per the Leave Restriction Notice that you were issued on 9/21/2022 and the subsequent follow-up emails. Please advise no later than **COB today** about your work status for today and your whereabouts.

Best,

Carolyn

Carolyn Nganga-Good, DrPH, RN, CPH
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